

NO CURE-NO PAY



De MI-AMIGO Chronology

By

Geert Theunisse

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Part-1

Preface

This is probably the world's worst written book in the history of the beautiful English language. So, shame on me! My only insignificant excuse is that I never studied a foreign language. Now I come to think of it, I studied pretty much of noting! I somehow, somehow just picked a few things up along the line that is called life.

Maybe you like an even pittier excuse. I didn't got any help sofar. So...anybody out there...?

However, this book has two things in its favor: it is the truth and the facts are real.

The compiler of this book, your storyteller, walked around for quite a wile with the idea for this book. It is not an easy decision to make, bringing a story into the open which caused a lot of misery and sorrow in ones life, especially not if oneself was the subject in that story.

I had to restrain myself constantly from using language far outside the boundaries of normal politeness. Not doing so would probably have led to no book at all.

Quite some years after this story had reached a period of standstill, a certain event occurred that tipped the balance in favor of publishing at last. You'll find the nature of that event, for reasons of chronology, almost at the end of this book.

Finally, I thought it appropriate to put down my notes, thoughts, comments, and explanations, in fact my story in this book.

To prevent endless repetitions of text and statements in the story, you'll find the various original Documents in the Appendix.

The documents are, has it should be with documents, unchanged with the exception of one or two miss spelling and/or typing errors.

By no means saying here that I found them all or didn't make a few of my own!

I also stripped most of the documents from letterheads, lists with Partners, telephone and telex numbers and such stuff, they are unimportant for the story and took up too much space.

Naturaly, I kept the senders and recipients names and the dates in place.

In no way it was possible to put all of the original documents from this story into the book.

The book would have become much too heavy to handle, and with too much of the same stuff in it! It would have had become as dragging on as the case itself was.

Still is!

Nevertheless, I assure you that both parties in the case have had an equal share in the available space. Please read this story as I have experienced it, and lived thru

it. Which means that other people, for example Civil Servants, and Political responsible figures from the Dutch Government and the like, may have a completely different view on the things and events that went on? This for sure would not be the case for the first time!

By means of this book, I had the chance of my saying in the matter and if someone or somebody feels a sudden urge coming up to cry out a completely different opinion in the matter, please feel free to do so!

Going thru my old files and dossiers for compiling this story brought everything back in my mind. Then I became more and more convinced that writing it down was worthwhile.

Writing the story and being very busy with it for a long time was like a therapy.

Your storyteller just hopes that reading this book will be entertaining for you and that maybe even a little learning will be in it. Like in the famous proverb:

“Be friends with everyone, but carry a big stick.”

G. Theunisse.

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500 HP Salvagetug Fury-2: proceeding full power to another, a better job...

CHAPTER 1 SALVAGE

Sept 20, 1979. It happened that a motor-ship named “Magdalena”, anchored at the North-Sea in the vicinity from Dutch Coastal waters, broke loose from her chains in severe weather conditions and started drifting slowly to the beach from the island Goeree. Finally, the ship went aground on the sandbank Aardappelbult. Until that moment, the ship was in use by a so-called illegal commercial radio station named ‘Radio Mi-Amigo,’ normally broadcasting from open sea, outside the Dutch Territorial waters.

Sept 21, 1979. The TEMY-IV, a seagoing tugboat from the Dijkhuizen Company at Flushing, started proceeding towards the ship in distress, with a direct order from the owners of the ship to bring her back into open sea. Rumor said: they had agreed with the Owners a fee for the job upon an amount of 150.000 Dutch Guilders, (U\$ 90,000- that time). At the arrival of Temi-IV, The Dutch State-Police was already on the scene also and there was no way of giving any assistance to the ship, because the Police had the ship impounded.

Sept 21, 1979. In the evening hours, two tugboats from Smit International, MT. ZEEHOND, and MT. ZEELEEUW, arrive at the scene by order of the Officer of Justice at Amsterdam, to see if they can save the impounded ship. They don't succeed. Smit-Tak reports to the O.O.J. that - with regard to the value of the ship - it would be wiser to abandon her, just leaving the ship were it ran aground. The philosophy behind this advice was that it would be much more lucrative for the Smit Company to save the ship, a few days later with heavy equipment, under the authority from Department of Water, which Department has special authority and funds for the removal of wreckage out of Government waters. In that case, they would have had at least several hundreds of thousands of Guilders more to expect than for prodding around with two little tugboats. Meanwhile, even a little child could grasp that the ship couldn't possibly be abandoned at that position, very close to a very expensive and very vital sea barrier. Therefore, the ship went left alone...for a wile...

Sept 23, 1979. At 11.15 hours, I receive a phone call from Police sergeant W. W. at the Districts-radiostation from the Water Police at Dordrecht with a request to me, to undertake the salvage from the ship Magdalena, at that moment grounded

and making water, sitting on the 'Aardappelbult' on the coast of Goeree. Sergeant W. is forwarding the request on behalf of the Commander from the Police-boat RP-9, from group Willemstad, and on scene at that moment. The on scene Commander, - also Substitute Officer of Justice – is Ajudant J. Kamp. During three brief telephone calls regarding various information that I was asking Sergeant W. - to get an idea about the situation of the ship – W. tells me that the ship was been impounded under custody of Justice. He tells me also that Justice is inviting me to do the salvage job under the well-known conditions of 'NO CURE-NO PAY.' Furthermore and last, W. tells me that the Officer of Justice at Amsterdam gives the salvage order. At the end of the third telephone call, I accept the order and start to sail out at 11.30 hours from my station at Dinteloord with my salvage tug Furie-2. In addition, I call my colleague at Den Bommel for assistance with his salvage tug Orca. Soon after, we're outward bound to the North Sea and underway to save the MV Magdalena. If only at that moment I could have dreamed about the dramatic turn in my life that was about to unfold...



Fury-2 at the North Sea, just sailed out from Stellendam.

Sept 24, 1979. At 17.30 hours, we completed the salvage with full success, with the ship safely moored at Willemstad. We installed two electrical driven pumps in

Hold nr2, powered from the shore, to pump out the little amount of leakage water. In addition, the Police placed the ship under surveillance. We - Orca and Furie-2 - are leaving the ship, after instructing the Police about the pumps and telling them about our plans for the next day, whereafter proceeding towards our respective stations for a very necessary and well-earned rest.

What everybody afterwards has forgotten - for convenience purposes - is that we saved the Dutch taxpayer a lot of money with our action, simply by preventing the later undoubtedly necessary big scale salvage. Further more that with just a little more common sense on the Government side, there would have been surplus money left over from our salvage. This in case they had sold the ship for a somewhat more realistic price... Alternatively, and even much, much better, did not have sold the ship at all...

Sept 24, 1979. In the evening hours - I am at home, sleeping, dead to the world, not knowing anything - the Government in the persons of Police-Adjutant-Group-commander J. Kamp and a Civil Servant from the Department of Water (DGSM), B Rijpkema, is starting quiet and very hush hush preparations for the sale of the ship Magdalena... Just saved by me, with the salvage still in progress, and I still busy and not finished with it...

Sept 25, 1979, at dawn I am completely refreshed back on the ship again, now with a diver team to fix the few tiny leaks in the bottom of the ship, which were quickly discovered by the diver; only two missing rivets from the Port-chine. We're ready with the job by noon that day. In addition, a short time past noon, the Government manages to sell the ship, in secret. No one has taken the trouble to inform me about that fact, until later in the afternoon when I receive a call from the Police station, requesting me to come to the office. The Police-Commander informs me about the sale of the ship... For the amount of 14,000- Dutch Guilders...?!

He asks me to update by telephone the new owner about the situation of the ship. The Police-Commander gives me a phone number, and I'm being connected with Heuvelman Steel BV. I'm telling the person at the other end of the line that Magdalena is safe again. No more leaks, and fit for transportation. After the telephone call, the Police-Commander invites me for a meeting on short notice later that week, at which meeting I may present him my Invoice for services rendered. He is even joking about it in a rather cheerful mood. "...because I suppose you would like to be paid for the job Geert, or don't you?"

We are planning a meeting for Sept. 27, 1979, at 10.00 at his office. After consulting the districts bureau at Dordrecht, because someone from them has also to be present at the meeting, says the Police-Commander. Afterwards, I am leaving the bureau, back to the harbor to gather my salvage-gear, cleaning up and to sail our boats back to our stations.

In the next day's newspapers, one can read several brief articles about the salvage and the definitive closing-down of the Radio station Mi-Amigo. Later on, several magazines are serving more extended articles with background info, all in the fashion as in the Appendix: (Nr. 1)

Sept 26, 1979. The ship is been towed away from Willemstad to Viane at Zeeland by the buyer. It's going to be demolished there.

Sept 27, 1979. At 10.00, I am present at the Water-Police station at Willemstad, where Mr. Kamp on behalf of the Dutch Government accepts my Salvage report plus Invoice, and it suddenly turns out at the same moment that my Invoice is somewhat different from the ideas of the Government in this matter. The Government was apparently convinced - until now - that the selling-price of 14,000 Guilders was a reasonable price, and sufficiently enough to pay me. However, my Salvage report reads as follows:

Salvage & Towing-Company Theunisse

To the State-Water-Police, Group Willemstad, Hellegatsweg, K Building,
Willemstad

Date: 9-26-1979.

Subject: Report of salvage on 'L.O.F.', 'No Cure-No Pay' basis from motor ship MAGDALENA, nationality Honduras, homeport Puerto Cortes, by order of Mr. Pieters, Officer of Justice at Amsterdam. Ordered by telephonecontact with the Districts Office of the Water-Police at Dordrecht. Date 09-23'79: time 11.30 hours.

After receiving this order, we sailed with Furie-2 (Crew-2), from Dinteloord, and with Orca (Crew-2), from Den Bommel. At 15.30 through the Lock at Stellendam and at approximately 17.30, we reached the position of the ship. Meanwhile, the Magdalena was, due to the high tide, refloated from the sandbank 'Aardappelbult', and kept going free from the grounds in the gully named 'Kous' by the RP-9. However, the ship was leaking and heeling over to Portside and because

the leaking went rapidly worse, the list became dangerous and our assistance became very urgently needed.

Once we arrived alongside the ship, we started to pump out the water from Hold no. 2, with 21 meters 3" hose connected to our 6" salvage pump. At that moment, it was not yet possible to use the 6" hoses because of the swell. In addition, we installed the 2" mobile pump from Orca on Hold nr. 2. Meanwhile, the RP-9 was towing the ship out of the gully back to open sea, trying to give us as much lee as possible on the Starboard side of the ship. With this first setup, we managed pumping out just enough water from the ship to preventing it from capsizing and very slowly reducing the list. Meanwhile, at approximately 23.00, we arrived at the fairway 'Slijkgat' to Stellendam; were Magdalena hit the ground and halted due to too much draught on the stern, because also the engine-room was flooded with water. With fewer swells there and being aground in quiet water, which was in our favor, I took the opportunity to replace the pump hose with a 6" for Hold no. 2, to be able to put the 3" hose in the engine-room. To enter the engine-room with the hose, we had to cut a hole in the bulkhead between the engine-room and Hold nr. 2. Now, we could pump out the engine-room as well, and with more capacity on Hold nr. 2. Therefore, when the tide went rising again, the ship refloated and we could continue our trip.

At 04.00 ours, 09-24-'79, we arrived at Stellendam were the ship was emptied and it proved to be sufficient with only the mobile pump in action to keep the ship dry. Now, I took over the tow from RP-9 to go through the lock, and at 06.00 we were inside and moored to take a few hours rest. Around 09.00, we made the ship ready for towing. Two runners entered on board with the mobile pump, which they could switch between the engine-room and Hold nr. 2. We left Stellendam, Furie-2 towing Magdalena, and RP-9 convoying us, and to assist us through the 'Haringvliet' bridge. In addition, for later assistance with mooring in the 'Haverijhaven' at Willemstad, being the first destination of the ship. We arrived at Willemstad at 15.00 hours, were we installed two small submersible pumps, electrical driven and powered from the shore. Finished with these first preparations, we went to our respective stations to rest.

On 09-25-'79, at 08.30 hours, again we went to Magdalena for stopping the leaks in the bottom and collecting our salvage gear. The leaks, two in total, were located both in Portside chine, being two $\frac{3}{4}$ " holes from missing rivets. We replaced the rivets with bolts and nuts. We found no more leaks. One leak in the bulkhead between the engine-room and Hold nr. 2, was very tiny and unimportant. Although there was substantial damage done due to banging onto the sandbank to the

bottom in the same area. However, there were no leaks in the engine-room from the outside. After another and final pump out of all the water from the ship and a thorough inspection, we informed the new Owner of the ship; which concluded our work in this case and we sailed back to our respective stations. Moored at 19.15 p.m. Report made at Dintelsas on 09-26-1979 by G. Theunisse

Salvage Magdalena: 09-23/24/25-1979, cont.
Salvage Claim.

Considering the before mentioned facts in this case. Considering the risks, we took with our salvage equipment, with a total value of Fl. 700.000-. Considering the amount of time needed to complete this salvage. Finally, considering the very important fact of the urgency of our intervention. -We arrived just at the critical moment before the capsizing of the ship, and were able to save the ship at the very last seconds -. This fact is already - and will be - confirmed by various witnesses. Therefore, I base my claim on the Law. (Book two -Seventh Title: The Law of Commerce). In addition, I base my claim on the contents of Lloyds Salvage Agreement 1972 - known and accepted worldwide - with the remark that, taken in account the relationship between the parties in this case, arbitration at London is not really an option, and an amicable settlement is far more preferable. For my salvage claim, I base my calculations also on the 'value after salvage' of the ship. In my opinion, this is realistic to the amount of 200.000- Guilders. Because there is no relationship between the realistic value and: A) the received sales price of Fl. 14,000- by the Government. B) The claimed value of Fl. 3,000,000- by NV Mi-Amigo. This because:

- A) The Dutch Government has no real interest what so ever by the ship.
- B) The aims and interests from NV Mi-Amigo are no longer served by the ship, since all the sound and transmitting equipment has been removed or destroyed.

The 'saved value' is just a rather minor factor for establishing a salvage reward. A much more important factor is the urgency of the carried out works and the results from the job, once completed. The job had proved to be most urgent with only seconds left for making our decisions. The result was 100 % complete and successful. On top of it, we prevented a very costly and time-consuming wreck removal, which would without any doubt, would have become necessary, once the ship had sunk, without our intervention. Concluding, I state that our salvage claim on the ship Magdalena, as follows on Page 4, is fully justified and I request for allowing full and promptly payment of my claim, with thanks for the given salvage order. Yours truly, G. Theunisse

SALVAGE & TOWING COMPANY THEUNISSE

Dinteloord, 9-26-79, Page 4. Magdalena—23/ 9/79, Oversight costs en salvage fee.

Costs.

- A) SV. Furie-2 and Motor tug Orca dd. 23/9/79 from 12.00 hours to dd. 24/9/79 19.00 hours, is 31 hours ad. F. 400- /hour, inclusive 2 men Orca and 2 men Furie-2.
- A) 25/9/79 from 08.00 hours to 19.00 hour's is 11 hours ad f. 400- /hour.
- B) 31 hour's, first day for a fourth man.
- C) Post for two dive shifts.
- D) Material en boats cleaning and maintenance 26/9/79.
- AK) Post for lost material en checked and unchecked damage.

Subtotals:	items	A)	f.16,800- plus 100 %	f 33,600-
	item	B)	f. 1,550- “ 100 %	f 3,100-
	item	C)	f 1,000-	f. 1,000-
	item	D)		f. 840-
	item	AK)		<u>f. 1,540-</u>
				Subtotal f. 40,080-

Total costs = f. 40,080-, times two, to include remuneration, is f. 80,160-

Alternatively: 40 % from the saved value is 40% from f. 200.000- is f. 80,000-.

My salvage claim extends to the amount of f. 80,000-, VAT excluded.

Your storyteller had based his claim – rather logically I would think -on the real saved value ad Fl. 200,000- and the real costs of the operation ad Fl. 40,000-, which resulted in a claim from Fl. 80,000-. At Kamp's office, we are talking about the low sales-price. I picture the Adjutant Kamp the possibility that he also could have sold the ship for 1400 or 14 guilders, or for 14 cents for that matter. But that his sales price has nothing to do with the real value. Kamp asks me to go play outside for a while, because he wants to discuss the matter with his colleague Adjutant Verveer. After a while, I'm called in again and Verveer tells me that - incase I stick to this claim - Kamp will end up in big trouble. Kamp brings up that he had thought - taking into account the pleasant relations between the Police and me - he would have had been able to pay my salvage fee out of the selling price. I ask Kamp if in that case it hadn't been more prudent, decent, and wiser to first consul-

ting me about my upcoming claim. Instead of selling the ship that quickly, that secretly, and behind my back!

I ask Kamp if he ever has heard of the rights of a salver. For instance, to hold a ship back in retention and everything on it after salvage, until he is sufficient assured about the payment of his salvage fee. That he Kamp, already was busy with his secret little 'auction' when I was still working my tail off on the ship - on a No Cure-No pay basis - and busy as hell with repairing the leaks. I ask Kamp what in the world my pleasant relation with the Police has got to do with expecting from me; to do a lot of dangerous and risky work, making large expenses, saving a 'third party' ship. And all that for free? I only have No Cure-No pay as a basis for my income, for my existence dammit!

The atmosphere in the office is becoming tense. Verveer is literary fleeing from the room, back to Dordrecht. After Verveer has left, Kamp tells me that he will see to it that I shall be been paid for my work. "...even if you could get Fl. 160,000-: It would not bother me." Now, Kamp is shoving me out of the room with some vague and incoherent promises. A feeling of a vaguely unrest is creeping up on me.

During the conference, Kamp also made objections about the next point. In the 3^e paragraph of my salvage report I wrote, "Meanwhile, the ship was floating again, due the high tide, and was kept going in a Sw. direction by the RP-9."

I wrote this contrary the truth, for one reason only: To keep a very wrong decision made by Kamp out of my report - to start pulling on the ship with the RP-9 - before I was on scene, or even in sight. Before my arrival, the following conversation had taken place on the VHF, between Kamp and me: Kamp: "We have the ship floating again Geert!"

Me: "What the hell are you talking about? What about the water inside?"

Kamp: "It's still there, I guess..."

Your storyteller said a lot more then, but not on VHF, and even now not fit for repeating.

The Magdalena was a 'Dry Cargo ship', not a tanker. A tanker is divided in tanks, longitudinal and over the beam, so by definition, within certain limits, with great leak stability. The Magdalena had only bulkheads side to side. The ship was flooded with a few hundred Tons of water, divided between Hold no. 2 en the Engine room. As long as the ship was aground, there was no problem en it was kept upright nicely by the sandbank. (See picture). However, when the ship was

been pulled off from the sandbank, all of the water inside flowed immediately to one side and the ship started to heel over heavily.

In addition, the ship was still making water by the leaks in the bottom, but this was minimal. Much more serious was that the list of the ship caused heavy leaking true various air vents on the lower side, whose inlets came now much too close to the sea surface. This caused a sudden increase from water flowing in, creating a much more dangerous situation for the ship. In addition, it forced us into the highly necessary and very quick emergency response and action. (See next pictures). This was the situation, created by Kamp's irrational and senseless action. In spite of this; on instigation from your storyteller; the following article appeared in next months 'Lekko' Magazine: (See App. 2)

At that time, I did not feel the need yet to confront Kamp with his mistakes. However, in spite of that, Kamp made objections against the paragraph in my report, handling about the refloating of the ship. "Well, okay then, have it your way..."

The Law of Commerce, Art. 552 say: "For every separate act of salvage – carried out with good result - a salvage reward is earned."

The Law of Commerce, Art. 565 say: "He, whom is found guilty for the necessity of the salvage - or credulous acts - can be excluded from any reward."

So much for the objections from mister Kamp.

Once when we were proceeding well with the pumps, Kamp wished to go to Hook of Holland. Kamp: "Geert, a TV Crew is awaiting us there!" (See the statement from Mr. Pieters). Please picture this idea: From the Brouwersdam to Hook of Holland, and then on the busy-as-hell, crucial Waterway to Rotterdam with a damaged, unstable ship, barely floating, and deliberately passing Stellingen...only to get a TV-shot? No way, Mr. Kamp, Sir! Therefore, I switched off my pumps for a short while, and reported on VHF a 'malfunction' to Kamp. Kamp: "Okay, okay, we are going to Stellingen." (See Internal Affairs Report).

When we went aground again in the Slijkgat fairway, the situation turned to the original one again, like in the salvage order. The ship grounded, and in all peace and quiet pumping out the water until the ship was upright and empty, and floating in a stable manner. Incoming leak-water kept to a minimal by means of a 2" mobile pump. A very small pump, that is.

Sept 28, 1979. By order of Heuvelman Staal BV at s-Gravendeel, the new Owner of the ship, now moored at 'De Val' at Zierikzee; the ship underwent a Value-Taxation, carried out by Mr. J. P. Voorwinden, from valuation bureau De Beer at Rotterdam. Report number 79157/V/NM. The report reads as follows:



MV. Magdalena still grounded and still straight up, when the Police started to pull the ship afloat.

P. DE BEER & Co. SWORN MARINE SURVEYORS, CONSULTING ENGINEERS, AVERAGE AGENTS

ROTTERDAM – HOLLAND, 79157 SURVEY REPORT.

The undersigned: J.P. Voorwinden, expert in establishing the weight of ships, as such sworn in by the Chairman of The Chamber of Commerce at Rotterdam. Hereby declares that he: as a member from P. de Beer & Co, Ships & Machinery Expert's at Rotterdam, on September 28, 1979, went to and onboard from the motor ship "MAGDALENA", radio-station "MI-AMIGO", ex. "CENTRICITY"; in that time laying at De Val on the Eastern-Scheld near Zierikzee. With the order from Heuvelman Staal BV at s-Gravendeel to establish the following weights:

- A. Steel scraps metal.
- B. Cast Iron scraps metal.
- C. Non-Ferro metals.

Particulars:

<u>Length over all</u>	<u>58.37 meters.</u>
<u>Length between lead lines</u>	<u>54.26 meters.</u>
<u>Beam</u>	<u>8.54 meters.</u>
<u>Depth</u>	<u>3.57 meters.</u>
<u>Build by</u>	<u>CLELAND'S Ltd. WALLS END – ON-TYNE</u>
<u>Year</u>	<u>1955</u>
<u>Lloyd's Identity nr</u>	<u>5067259</u>
<u>Tonnage Bruto</u>	<u>655 tons.</u>
<u>Tonnage Netto</u>	<u>329 tons.</u>
<u>Cargo capacity</u>	<u>785 tons.</u>
<u>Last Owner</u>	<u>Unknown.</u>

Except from the strut's, which are riveted, the hull is weld together. The ship provided with a double bottom from forepeak to engine-room. The tank top provided with a wooden floor. In hold nr. Two, the wooden floor has come lose. In hold nr. Two are three square steel tanks, each with dimensions six by five by five meters, which tanks are with angle-steel attached to the hatch and were apparently used for ballast-tanks. On the raised foredeck: a anchor winch, chain driven from a winch on main deck, 2 chain stoppers, 4 double bollards, no anchors present and just 1 anchor chain, 2 wire rollers. Around foredeck, open railing, on the rear from foredeck 1 steel mast with steel cargo-boom. Under the foredeck at portside a paints cabin, in front a cable hold with tools, at starboard side a locker. In front of Hatch nr. One: an electrical driven winch, beside the hatch 2 doubles bollards, and closed bulwark with water valves. Behind Hatch nr. One, on the raised main deck, a bridge deckhouse, in which at portside, a toilet, two cabins, 1 locker, which compartments are all empty. On the bridge deck; a wooden floor and wooden bridge-wings.

In the wheelhouse, a compass, engine-room telegraph, steering stand with wheel, radio transceiver, Kelvin-Hughes radar, flags drawer, chartable and some parts. On the wheelhouse top, a radar scanner, salt en fresh water tanks, life raft, two searchlights and railing. Behind the bridge-deckhouse is Hatch nr. 2, on both sides with closed bulwark, 4 double bollards. Behind the hatch, one steel mast with steel cargo boom, also an electric driven cargo winch and an entrance to the hold. Both Hold one and Hold two are closeable with steel shields and wooden hatches. Behind hatch nr. Two: a stern deckhouse on which two wooden lifeboats, complete with cranes and controls. On the lifeboat deck: an open railing and wooden deck.

Also on this deck, two water tanks, smokestack, engine-room top, ventilators, six double bollards, cable winches, and stairway to living quarters. In addition, a steel mast with spreader, four wire rollers, galley top light, and thermo tanks. Below deck, Crew quarters, in the center 1 double cabin, to starboard side, three double cabins, locker, shower cabin, galley with electric furnace, workbench with sink, refrigerator. To the portside: a locker, single cabin, stairs to boat deck, single cabin, toilet-shower space, and mess-room. In the stern: the steering room, in which a duplex electric-hydraulic steering motor.

Engine-room.

In the engine-room top, water-heather, two ventilators, exhaust line, one rail with moveable tackle. On the center floor grating portside, a large switchboard, complete, and storage space. To the stern: three starting-air-bottles with appendages. On starboard side, 2-cylinder two-stroke Diesel engine coupled with generator, pump, separator, and oil cooler. On starboard side, a second 2-cylinder two-stroke Diesel engine, coupled with generator, piston-ballast pump, and compressor. Also here: a switchboard and small separator. Main engine, five cylinders direct reversible two-stroke Newbury Diesel, 500 HP. complete with charger-boosters, coolant and lub-oil pumps, propeller shaft, and thrust-block, and stern tube. Also in the engine-room, the necessary auxiliary equipment, vents, filters gratings, etc.

The weights from the above-described ship are by the undersigned estimated as follows:

- | | | |
|----|-------------------------|-----------|
| A. | Steel scraps metal: | 550 tons. |
| B. | Cast Iron scraps metal: | 175 tons. |
| C. | Non-Ferro metals: | 3 tons. |

Rotterdam, October 1, 1979. J. P. Voorwinden. (End of report)

This Report leads to the following: Total scrap value of the ship on the market, in that time, was f. 212,750-. This amount must be extracted with the costs of transport and demolishing. The demolishing was been carried out by cheap, illegal labor. These costs were around f. 55,000-. Not without good reasons, Heuvelman Steel BV chooses to have the demolishing carried out by ship wrecker V/d Marel. They only made this move - which they called 'a sale' - for the sake of lower expenses. And to be of the hook in case something went wrong during the demolishing. This move, the fake sales transaction between Heuvelman and V/d Marel, was the safest solution for Heuvelman: Very cheap labor and noting to bother about all the dirty waste from the ship during demolishing, which went to

sea, two outgoing tides a day, and disappeared for free into the Eastern Scheld. The real costs of demolishing amounted to f. 40,000-, on invoice. The various items for ship lovers and radio zealots were been sold afterwards for f. 30,000-. Recapitulating: The value of the ship after salvage, was f. 242,750- minus f. 55,000- = f. 187,750-. This Report was also the product from a completely unprejudiced Bureau, with no ties what so ever with the salver or with the Government, and this Report was been compiled at a date when there was not yet any conflict between any of the parties involved. Yet, this Report shall be cautiously ignored, throughout the case, by all Judges, Arbitrators and all of the other people involved - hundreds of them - from the Government. I receive this Report, thanks to the results from the investigation from Internal Affairs, many months later. By its nature and origin, this Report was also the only relevant report ever made regarding this 'Ships Value' issue, among all the rubbish made later on. All other exercises in this matter became necessary because of the rigid and stupid attitude from the Government.

Oct 2, 1979. Again, I went to the Police office at Willemstad to speak with Group-Commander Kamp. Who wishes only one thing, to shove me out again as soon as possible. I urge him to phone, telex, or otherwise contact the Officer of Justice at Amsterdam on my behalf. He tells me that this is not possible; "He is a very busy man Geert, I cannot just call him for everything." "You know what," he says, "I write him a letter on your behalf to ask him for an appointment, to meet you for talking over the case." He is writing a short note by hand and calling in the group's administrator, Mr. V/d W., to type it out and to send it to Amsterdam that day. Mr. Kamp has to end our talk, he says for urgent reasons. I'm leaving the office with more doubts.

Oct 4, 1979. For the second time, I offer my salvage-claim to the Government. Now with the assistance of a Lawyer. Now addressed to the Department of Justice at The Hague. Now very confused and upset...



Busy with a next towrope after the first snapped. The ship is still aground but starts to list.

CHAPTER 2 SUMMONS

MRS VAN DEN HEUVEL EN FLESKENS LAWYERS & PROCURERS

PRIORITY AND EXPRESS MAIL. WITH CONFIRMATION OF RECEIVING.

The State of the Netherlands: To his Excellence, the Secretary of Justice.

Square 2b, 2511 CR s-GRAVENHAGE.

Excellence,

To me called my client, Mr. G. A. C. Theunisse, from Bergings & Sleepdienst Theunisse at Dintelsas (Dinteloord) with the following:

On September 23, 1979, at 11.30 hours, my client received by telephone order from Mr. J. H. C. Pieters, the honorable Officer of Justice at Amsterdam – forwarded by the State-Police at Dordrecht - to undertake the salvage from the motor-

ship Magdalena, which ship grounded on a sandbank named Aardappelbult, at the coast of Goeree. The salvage order was issued on the "No Cure-No Pay" terms. (Lloyds Open Form). My client did accept this order, indeed sailed out with his salvage tugboat, and indeed did this salvage. Meanwhile, client made and did sent his report to the State-Police at Willemstad, Hellegatsroad, K. building, with which report he included his statement of facts, his statement of costs, and his statement and claim for salvage remuneration, conform the regulations and rules from Lloyds Open Form. In total, client is in title, according to these statements, to remuneration in amount of f. 80,000-, VAT excluded. Copy of these statements is included with this letter. September 25 1979, at 17.15 hours, the salvage works stopped by order of the State-Police, after the ship was arrived on the safe place, chosen by the salver. According to the rules from Lloyds Open Form, parties should reach an agreement about the remuneration within 14 days after the salvage, and payment should follow as soon as agreement is been reached.

In case an agreement is not been reached within 14 days, the party who had given the salvage order shall provide sufficient security to the amount of money the salver wishes to be secured for. Client is conveying to you for now that, in case an agreement is not reached within 14 days, he shall demand a security in the amount of f. 120.000- in which is included, salvage costs and fees, interests, legal fees, etc. The Lloyds Open Form says that on demand from one of the parties involved, arbitration should take place before the 'Committee of Lloyds', further more, that by non-agreement, this security shall be deposited at the Committee of Lloyds. In addition, I bring to your attention that, after the State-Police had ordered my client to stop his salvage work, the ship is withdrawn from his power, without his specific consent, and towed away; with the consequence, that client was not able to practice his right of retention on the saved ship. This is a violation of the Law, and a breach of the rules of the Lloyds Open Form. Doing so by the Government was unlawful and illegal. Placing in custody by client, or returning to client of the ship, is impractical, now the ship is under demolishing.

As of now, I demand from the State of The Netherlands:

1. Within 5 days let me know in writing if the claim of f. 80,000- VAT excluded will be accepted or not be accepted.
2. If the claim will be been accepted conform clients' invoice, to pay this amount within 5 days after today, and to do this by transfer of the money to one of the accounts mentioned in this letter.
3. Incase the State is not accepting the claim within 5 days, to provide sufficient security for my client. Client accepts a deposit of f. 120,000- on a blocked account.

4. In case the State is not accepting the claim within 5 days from now, to make an offer, together with the sufficient security, regarding the further proceedings in this case.

5. Within 48 hours, let me know if the State wants to proceed before the Committee at London according to the Lloyds Open Form, in this respect with the remark, that my client arbitration before the committee of Lloyds thinks not necessary, and that he is prepared to put the case before a Court of Justice in The Netherlands. It appears to him that neither security at the Committee of Lloyds, nor arbitration at London is appealing for both parties concerned. Also in this respect, I point out that both parties are free in their choice to divert from the rules of Lloyds. In the case of denying of one of my demands above, within the given terms, my client finds the State in fault and is free to act, as he seems fit, to take all measures necessary to protect his rights. He will demand, besides the principal sum, also legal interest, costs etc. Copy from the letter I send to the honorable Officer of Justice, mentioned before, and to the State-Police at Willemstad, mentioned before. With regards, Mr. E. Fleskens

Oct 8, 1979. The State informs us that she denies our demands... Because there was no salvage order given... After receiving further information, she will report us back. In retrospect, I can understand this first reaction of the State. They did not know anything about the case, which had developed at a lower level of the Government, which kept the lid on until that time. However, I am also convinced that they had started investigations at once and straight into the direction of the Officer of Justice, and the State-Police. I am convinced that they heard already by that time what happened. I am also convinced that by that time, on the Department of Justice, they also had decided what policy they should follow in the case. This policy was not based on my salvage claim, but based on entirely other grounds...

The first decision taken was to transfer the case into the hands of the Lawyer of State. At first sight, there is nothing wrong with that decision: Mrs. Tazelaar and Bos from the Department assured me afterwards that they were obliged to do so "Now a conflict exists with a civilian"... However, was there a conflict already? The Department received a summons to pay. This paper contained all information necessary for them to check on all the facts of the matter. After doing that: (They did so very swiftly - by telephone - see the documents). After that, they only had to do the obvious: Starting negotiations with me about a reasonable salvage fee. Therefore, at that time, there was no conflict yet at all.

Just negotiate, shake hands on it, and ready we are. Next case please. Like in every other normal business deal... Not just for the hell of it, I wrote in my salvage-report to demand a salvage-CLAIM. A CLAIM is, with the right arguments, if such are available, always negotiable.

Department of Justice

Date: October 8, 1979,

To Mr. E. C. P. G. M. Fleskens, Your letter dated October 4, 1979,

Answering your above-mentioned letter, in which you, acting on behalf of Salvage & Towing-Company Theunisse at Dintelsas, are proceeding against The State of the Netherlands, I report you as follows. My first gathered information did show, that none of your mentioned facts, and your view on the things that happened, are correct. I do emphasize here that the Officer of Justice, Mr. Pieters, or the State-Police did not order your client to salvage. In view of the above, I shall not comply with your demands under the numbers 1 to 5 of your letter. As soon as I have received the Reports I asked for, I will contact you for further handling of the matter. The Secretary of Justice, on behalf of the Secretary, the Director-General, head of the Police Board, on his behalf...

Oct 9, 1979. Again, I try to get in contact with the Officer of Justice. No luck...

Oct 10, 1979. In vain, we are trying to get the Police Reports regarding the salvage.

Oct 10, 1979. The first Lawyer of State, Mr. H. Bouma is letting us know, that now he's appointed by the State for further handling the case, and is preparing himself.

Pels Rijcken & Droogleever Fortuijn. States-lawyer.

To Mr. Fleskens: October 10 1979: Case: State/Theunisse

Dear Confrere,

Meanwhile, I took over this case. I expect to need 14 days to study the case and gathering information. After that, I will return to you. Yours truly, Mr. H. Bouma

Telex from Mr. Fleskens, answering Mr. Bouma, the States lawyer.

13.00 The Hague, 33673 advac NL, 52033 ratio NL

To the attention of Mr. H. Th. Bouma. Case: Theunisse / State of the Netherlands.

Dear confrere,

Hereby I confirm to you our conversation by telephone, we just finished. You told me just being appointed by the Dutch State as counselor in this case. I offered you to start negotiations about a salvage fee for my client, as I did yesterday to the department of justice. I am not prepared to wait for the reports in writing from Mr. Pieters or Mr. Kamp, before the State will take a position about the question in principle: If or not a salvage order is given to my client, now my client cannot afford this, because his financial situation cannot let him wait for the results of all that. He only is prepared to wait if security in order of f. 120,000-, or another acceptable security is offered, which is the more justified now the State in fact has withdrawn the ship from his right of retention. I proposed to you to take contact by telephone with the involved officer of justice and/or the involved State Police members, assuming that these people must be able to tell if they have given the order to salvage. I trust it without a doubt that this immediately to become information shall not be different from the statements, already made in writing by the Policemen involved. These statements were been sent already to the department of justice, last week. You told me that neither you nor the State is working in that manner. After that, I pointed out to you that my client does not wish to be been damaged by the way of procedures from you and/or the State. Much to my dismay, you suddenly broke off the connection. You invited me to go to court than. You told me that the State cannot be asked for security, because for the single fact that she is the State. Considering your wish to have everything in writing, I suggest that our contacts will be limited to letters and/or telexes. Yours truly, Mr. E. Fleskens

Oct 12, 1979. At the Department of Justice, they are in serious doubt; (which only will be been proved after YEARS, during the investigation by the National Ombudsman); if they can stick to their standpoint that no salvage order is given to Theunisse. This considering the words en terms used in the contacts by telephone on September 23, 1979. In spite of these serious doubts on the Department, they are not considering a change of policy, and no efforts are been made to contact me. Every contact that I had with the Department was on my own instigation. Now, at this stage: one could speak about an upcoming conflict. However, this conflict is not to blame on your storyteller. It is to blame on the stupid policy, followed in this case by the Department. The only thing I want was be being paid for a job well done. Noting else.

Oct 15, 1979. We are asking the Court at The Hague for a preliminary hearing of witnesses for recording the facts and circumstances around the salvage of the ship.

Six witnesses: Five Policemen from the Group-Willemstad, one Policeman from Dordrecht, and the Officer of Justice from Amsterdam, are on our list and called for, according to the rules of the Law. Later on, we did put an additional, the seventh, witness on the list.



Chapter 3 WITNESSES

MRS VAN DEN HEUVEL EN FLESKENS LAWYERS & PROCURERS

Theunisse/State of the Netherlands

To the honorable Clerk of the Districts Court at The Hague, Palace of Justice,
Juliana van Stolberg lane 2, 2595 CL, THE HAGUE

Honorable Sir,

Enclosed you will find a request to the Districts Court at The Hague, with the purpose to have a preliminary hearing of witnesses in the above-mentioned case. My procurer at The Hague will serve this request. The chef de bureau had already contacted with you by telephone about a possible earlier date to have the hearing. In view of the situation regarding this request, I can inform you as follows.

As you can read in the request, my client (Salvage Company Theunisse) received a salvage-order, by telephone, on a no cure- no pay basis, for the motor-ship Magdalena (Mi-Amigo), grounded on the coast of Goeree. The condition no cure - no pay is in the salvage world a commonly accepted condition, and is linked to the international accepted rules of Lloyd's Open Form. The salvage order, which was given by telephone, on behalf of the Adjutant Kamp from the State-Police, Group Willemstad, with the remark that this was done by order of the Officer of Justice at Amsterdam. My client accepted the order and concluded the salvage with good result, after which he immediately offered his salvage-report and claim to the authorities involved. Because there came no reaction from the State-Police or from Amsterdam, Mr. Theunisse called upon me, were after I have summoned the State to fulfill her contract-obligations according the Lloyd's Open Form, within the 5 days limit I had put on her. The State (Department of Justice) answered back; based on the available information that there was explicitly not a salvage order given to Theunisse and therefore, no ground existed for my demands for payment. Lloyd's Open Form says that the salver, by non-agreement about his reward, can demand sufficient security from the contracts party (in case, the State). This is also the case according the Law of Commerce.

I could now go to Court to demand for the sufficient security and for being allowed to establish proof about the given salvage order, contrary the view of the State. The demand for security from the State will probably not be granted, beyond which the Judge will not go, to allow prove of the question about the given salvage-order and he will send parties to a normal Court Procedure.

To find a quick order to deliver proof about the Law-grounds, one could think about a short-term procedure, but also this will take months. This leaves me only the possibility of a preliminary hearing of witnesses, to have testimonies on a short as possible time. As you can read in the request, the witnesses are with exception of the Officer of Justice, all members from the State-Police. As well as before, during, and after the salvage works, the Police was been intensively occupied with the Magdalena, in which framework to my client's opinion, the Police in a technical point of view during the salvage, and in the point of view as a contracts-party, have made serious mistakes. In the statements written by the Police, and on which basis the State will probably decide if there was a salvage agreement, the facts of the matter will be, as is the fear of my client, presented in a way in which the Police will come out of it with as little damage as possible. With the result that any recognition from the State will become dubious if a salvage-order is indeed been given to my client.

The details around the salvage, and the notes made at the Districts-bureau, and the content from the contacts by telephone are now still fresh in memory, are still there. My client has reason to believe that the official view from the whole history will differ from the truth in time. Therefore, it is of utmost importance, to cross this unpleasant development, by hearing the involved Civil Servants to establish the truthful facts in this matter. Because a real chance exists that, the "faulty" details in the statements will grow to facts, while now there is still time for my client to prove otherwise. The interests which can develop in time for the involved witnesses are such that my client finds it most important to let the involved Policemen and the involved Officer of Justice take the witness-stand, to prevent the weakening or changing from the facts, solely by time only.

Another aspect is that the State was letting us know, not wish to pay any salvage-fee, unless agreement about the amount is been reached, and only after it will be clear for her that a salvage-order indeed is given. This is very time-consuming, because the State says that only after she has received all of the relevant documents and have studied them, she will make up her mind about this. Taken into account also that the version from my client probably shall differ from the "official" version, which shall be been received by the State, an investigation about the facts will take even more time. My client is 'self employed', has a very small Company, and is financial not able to wait for all this investigations, let alone that as time goes on, finding the truth gets more difficult.

For this reasons, I have chosen for the possibility of a preliminary witness hearing, of which the time-element is the most important for me, because the possibility

exists of having a hearing on very short notice. Therefore, I emphasize strongly the necessity of a very quick hearing. Each day can be of importance, as well as for the reconstruction of the story, as for the financial position of my client. Furthermore, I hope to avoid, with a short notice hearing, that the recording of "faulty" facts will become a case in itself. Considering the fact that I have to call the contra-party properly as well as the witnesses, I am asking you to arrange a hearing within 14 days from now. I hope, considering the circumstances, that I can trust that this can be been done and I will appreciate this very much. Respectfully, yours truly, Mr. Fleskens

REQUEST

To the Districts Court at The Hague. From Mr E. Fleskens,
Respectfully is saying:

GERARDUS ANTONIUS CHRISTIAAN THEUNISSE, owner of Salvage & Towing-Company Theunisse at Dinteloord, for this case domicile chosen at the office of Lawyer and Procurer Mr. R. Larèt, at The Hague, Park street 105, who in this case is appointed as procurer and will act as such; That requester is naming as defender:

THE STATE OF THE NETHERLANDS seated at The Hague.

That requester on/or around September 23, 1979 before noon at 11.30 hours, accepted an order by telephone from the Districts-Bureau-State-Police at Dordrecht, holding a salvage-order for the salvage of the motor ship Magdalena. This ship sailed under Honduras flag, with homeport Puerto Cortes. The salvage-order had to be been carried out on the No Cure-No Pay basis, which condition is linked to the 'Lloyds Open Form'.

That during this telephone conversation was conveyed that the order came from the Honorable Officer of Justice, Mr. J. H. C. Pieters at Amsterdam; That requester on September 25, 1979, around 15.00 hours was ordered to stop his salvage-work, after which order requester at 17.15 hours has left the ship;

That at that time the salvage was completed, the ship was moored at the safe place, chosen by the salver, and the leaks in the bottom of the ship where repaired in a way that the ship was safe.

That requester immediately after the salvage was finished, had composed his report and his salvage claim, and did served them both to the Government, via the State-Police.

That the first reaction showed that his claim was not handled for the time being, after which requester did call upon his counselor, Mr. E. Fleskens: Lawyer &

Procurer at Tilburg, with office at Nieuwlandstraat no. 5, whom by letter dated October 4, 1979, demanded the Government to fulfill her contractual obligations; That hereby is enclosed a copy of the summons and a copy of the claim from requester. That the Government on October 8, 1979 answered, from which letter also a copy is enclosed, in which answer the Government denies the given salvage-order.

That since then the Government did not leave this standpoint in spite of various contacts. That the Government also did not comply otherwise with the content of the summons in the letter from October 4, 1979;

That now a discussion has developed between parties about the law-grounds of the claim of requester, and requester wishes to file a Procedure against the Government, but already right now will produce proof for his position, to be able to foresee his chances for success, and to establish the grounds and basis on which his claim must be been filed.

That requester has therefore, considering this, the right and interest to request that a preliminary hearing shall be been held.

That requester wishes that the following witnesses should be been called to be been heard:

1. Officer of Justice, Mr. J. H. C. Pieters associated with the Court at Amsterdam.
2. From the State-Water-Police, Adjutant, J. Kamp.
3. Also from the S.W.P. Sergeant W. W.
4. Also from the S.W.P. Sergeant 1^e P. H.
5. Also from the S.W.P. Sergeant P. Van den B.
6. Also from the S.W.P. Detective J. van der S.
7. Also from the S.W.P. Engineer P. K.

That requester has the right to call on other and more witnesses, to let them be been heard also. That although by Law of July 18, 1951, the rules about preliminary hearings changed in the sense that the demand that danger must exist for loss of the means of proof, is abandoned, requester nevertheless has real fear for the loss of proof by means of witness. That in the situation on hand, in time, requester shall be been granted to deliver proof by means of witness.

That requester therefore has the right to request a preliminary hearing.

That the Procedure in Law, considering the domicile of requested, shall will be been filed at Your Court.

Wherefore requester is respectfully calling on Your Court with the request to order that in this case a preliminary witness hearing shall will be held on a date and time by Your Court to decide, and also to decide on the time at which the requested shall will be called on.

The Hague, October 1979. Procurer,

Oct 18, 1979. The Court at The Hague did decide on the date and time for the hearing. The hearing will going to be been held on November 19, 1979, beginning 10.00 AM and for ALL witnesses.

MR. FLESKENS LAWYERS & PROCURER.

Theunisse-Salvage & Towing. To: Mr. Theunisse, Dintelsas, DINTELOORD.

Dear Sir,

Enclosed you will find a copy from the decision of the Districts Court at The Hague, which shows that a preliminary hearing will be held at November 19, '79. Meanwhile, I have called all witnesses, according the Rules of the Law, and I have filed the Request with the Courts decision to the Procurer-General from the High Court at The Hague. With greetings, E. Fleskens.

Request-number: 79/1907

THE DISTRICTS COURT, First Chamber at The Hague;

Seen, the above-mentioned request; considering that, the request is been based on the Law and is valid for approval. DECIDING: Rules that, about the facts named in the request shall be been heard the witnesses named in the request.

Rules that this hearing will take place on Monday, November 19, 1979. At 10.00, at the Palace of Justice, Juliana van Stolberglaan 2 at The Hague. Before the Member of this Court, Mr. D. Reisig, for this case appointed as Judge-Commissary.

Rules that requester before or on November 8 1979, must deliver a copy of the request and a copy of this ruling to the contra-party, and that the by the request mentioned witnesses will be called for in writing, with confirmation of receiving, with intervals in time from 15 minutes each;

Rules furthermore, that requester will send a copy from the letter, dated October 15, 1979, from the Procurer from requester to the Clerk of this Court, to the contra-party.

Carried out at The Hague, on October 18, 1979, by Mrs. R.R. Portheine, Vice President, D. Reisig, and C. G. Tjebbes in the presence from the Clerk.

will have it. Immediately result: Out with this Lawyer and to hell with his viewpoints! Never heard from him again! Who decided that he was on the wrong way? Who sacked him? Later on, it shall be been proved that the Government was absolutely not interested in handling this case in a normal manner. However, Mr. Bouma was, he was much too practical! Off, he went!

In a rather large amount of Procedures and Arbitrations in which your storyteller was involved in: - a phenomenon I'm innocent of - but that's inherent on the job in ship's salvage - it just comes with the territory -; it's always so that the strategy in a case was shaped out by both, the Lawyer and the client. The client has a 'gut feeling' about a certain case and about what to expect from it as result. The Lawyer guides him, looking at the Law and Jurisprudence, the customs etc. Are the wishes from the client not feasible for the lawyer, then he advises the client and further on he tries to get the best result possible for his client. However, the case remains the case of the client, never becomes the case of the lawyer. The end-result is the result, for the better or worse, of the client, not the lawyer. When the client did demand something not feasible from his lawyer, he is punished, not the lawyer. This will show in the verdict, lesser outcome, more costs, etc. A lawyer never takes over the murder, a client possibly did commit. The client remains fully responsible for his acts. Nevertheless, later on, the State will try to hide behind the States lawyer, pointing a finger to him, for her numerous evil acts in this case.

So: Mr. Bouma studies the case. He's concluding that Theunisse really has strong arguments to his favor in this one, and he makes an offer. Mr. Fleskens answers back that we, in spite of the very low offer, we are still pleased with it, because we are now able to start negotiations, or can go to London... By, by for Mr. Bouma... There can be only one reason for this. The State had realized that the possibility became very realistic now, that she could be forced to pay a lot more money for the salvage AND the ship, than her sales-price of that ship. That was not in line with her policy, her policy aimed at an entirely other matter...

Mrs. Van den Heuvel Buijsrogge en Fleskens

To: The Honorable Sir Mr H. Th. Bouma, THE HAGUE.

Case: Theunisse/State. October 26, 1979

Dear Colleague,

Your letter dated Oct. 24, 1979; in this case, I received in good order. Alas, I did not found enclosed, the Police-reports that I asked for, but you apparently already possess. Will you please send them to me? Considering the contents of your letter,

I must inform you that I cannot understand your viewpoints now taken. You stated that my client did assist with the salvage. Although you not admit that he had received an order to do this, I assume that you mean that such was the case. Furthermore, in your letter you say, that you wish to arbitrate on Lloyds Open Form basis, so, based on this phrase, in your opinion Lloyds Open Form is valid here. Now it puzzles me completely, how you can accept certain conditions, without acknowledging the given salvage order, directly related to such conditions. Now Lloyds Open Form does not know a situation of 'assisting' at salvage and you admit that Lloyds Open Form is valid here; I read in this that you recognize now, that in fact a salvage order is indeed given. That not my client, but the State-Police, did 'assist', very much to the dismay of my client, does not change that fact. The ship came under the responsibility of my client, who had accepted the given order and carried out the salvage with good result. Therefore, your letter from Oct. 24, 1979 raised only more questions for me. For this reason, I shall not withdraw the Procedure, which I have started meanwhile, but shall continue with it.

I think it is reasonable that especially my client shall now know all the facts of the matter.

To continue, I inform you that my client dismisses on beforehand the value-taxation from the 'Ships-Service', enclosed in your letter. Enclosed here, you find a valuation-report, carried out on request of my client, by Expertise Bureau Berex BV, at Rotterdam. This bureau concludes to entirely other values, as well as for the saved value, as also for the height of the salvage-claim. Regardless of the objectivity-value that can be been expected from a report from a Governments-Service, as the 'Ships-Service' is, in this case, the report is, in regard of the facts and in the conclusion wrong. Very short after my client arrived with the ship at Willemstad, a Company involved in the trade in ships-engines, made already an offer from f. 30,000-, only on the engine-room of the ship. The scrap-metal of the hull has a value of at least f. 80,000-. Together, the value of scrap plus engines was more than f. 100,000-. Not included here is the value of various parts as equipment, stores, etc. The realized 'sales-price' from the State and the "value-taxation" from her offices are in no way related to the real value of the ship.

Since Lloyds Open Form arbitration is been based on the real saved value, my clients' viewpoint on this matter is as well is realistic, as it is favorable: f.200, 000-. I even then do not include in this, that a good deal of the valuable equipment of the ship was destroyed by the Police, and that, with a more reasonable policy, the total saved value could have been much higher, in the case my client could have had saved the ship undamaged. You are of course free to want a arbitration at London,

although I fail to see the advantage in it for any of both parties, now such a procedure will be unnecessary complicated and costly. If you insist on this, I will cooperate, and the Committee of Lloyd's shall have to rule in this. With the remark in this view, that I shall ask the Committee to rule, regardless the amount of the claim of my client and the 'offer' now made by the State. On that moment, my clients' claim ad f. 80,000- is by then expired, and we will ask the Committee to rule on the facts and circumstances of the salvage. Regarding the fact that the Officer of Justice at Amsterdam, in a very early state, already was aware of the fact that a salvage would have been very costly, more than f. 100,000-, I am very confident that a procedure before the Committee of Lloyd's, will prove being worthwhile for my client.

To end with, I inform you that the de Lloyds Open Form will bring all costs of legal assistance to your clients account, as the contracts-party, (in case, The State). I hold you responsible for these costs as well as for the interest, from 8 days from now, over the amount of the salvage fee, as the Committee will rule, unless both parties will reach an agreement within this time. I think it wise if both parties now will commence negotiations with the help from the now known Experts on both sides. I believe that Mr. Kouwenhoven from Berex BV on our side, and Mr. Rijpkema on yours, know each other. Will you send me in any case, by return mail, the Police-statements? Thanks in advance.

Yours truly, E. Fleskens,

Now..., a great silence befell on Mr. Bouma, the States lawyer.

Mrs. Van den Heuvel Buijsrogge en Fleskens

To: The honorable Mr. H. Th. Bouma, THE HAGUE.

Dear Colleague,

On my letter dated Oct. 26, 1979, until now, I did not receive your answer. Meanwhile I discussed with my client, the valuation-report, conducted by the 'Ships-Service', which I received from you with your latest letter. About this report, we have the following remarks. On Sept 24, the Ships-Service had briefly inspected the holds from Magdalena, and concluded that there was a serious leak on the Portside Chine, although they were not able to establish neither the exact position nor the size of the leak(s). This task was impossible because only a day later the leaks where discovered, hidden under the sand from the seafloor that was flowed into the ship. Client, on Sept. 25, 1979, repaired these leaks, then found by him. Although client could not carry out a prolonged check on the repairs, (the ship was

towed away) he could assume that the ship was not, or almost not, still leaking. My client was ready at that time with his provisory repairs, except for the engine-room-bulkhead, on which I will return later.

Client could have had the ship laid-up with little effort and could have had prepared the ship with simple means, in a way it could have had been laid-up for years. This in contrary, written in your report on page 2 sub D, E, F, were these costs are estimated on at least f. 50,000-. If you wish to stick to this figure, my client earned this amount of money in the two hours he needed to repair the leaks! The preparations could have had been done, without the ship hauled out of the water. The very small leaks in the hull could easily have had been mended with cement, and the little leaks in the top-plate from the bottom-tanks could easily have been welded. The same procedure could have had been followed for the open rivet hole in the engine-room-bulkhead. In any case, the preparations as described in your report at sub A and F, should have had discussed over with the salver, or at least, they had to have invited him, to give his opinion on the matter. Even more peculiar is that the salver isn't invited to a contra valuation before the ship was sold. Instead, he was ordered to leave the ship on Sept. 25, immediately after he concluded his repairs and that at that time, the ship already indeed was sold, which means that the valuation, carried out by the 'Ships-Service' must have had taken place after the ship was sold. It strongly appears to me that this is a very strange way to conduct affairs of this sort.

I will now comment on a few points from the report of the 'Ships-Service': The report of Ships-Service speaks about leaks in the deep-tanks, probably due to heavy damage in the bottom of the ship. This is not correct. The Hold nr. 2 of the ship contained a lot of water during several days. In the tank top were indeed a few tiny leaks. Through these tiny leaks, the deep-tank became slowly filled with water, out of the Hold. The deep-tank ends at the engine-room bulkhead. In the part from this bulkhead, were the deep-tank ends, one rivet was missing, at a height of 4" above the ships bottom. Through this hole, about $\frac{3}{4}$ ", the engine-room was slowly filling, fed with water from the deep-tank, which water originated from the Hold. Nobody could have seen this before Sept. 25, at 14.00 hours, because only at that time, the engine-room was been completely emptied and the leak, the missing rivet in the bulkhead-bottom connection was found.

Because that the real leaks, the two missing rivets in the Port-chine of Hold nr. 2, were already repaired and the Hold emptied, no more water was leaking through the tank top from the Hold into the deep-tank, which was on his turn, slowly emptying into the engine-room, the lowest level part of the ships bottom. When my

client was been requested to come to the Police office at around 14.00 hours, his First Mate put a weighted marker line over the stern, outside, just free from the water surface. Meanwhile, a pump continued emptying the engine-room. When my client returned to the ship, after two hours, the marker on the stern was 2.5" higher above the water surface, because the deep-tank was slowly been emptied nearly completely by that time, via the engine-room, the pressure and the outflow from the hole in the bulkhead where also reduced remarkably. Conclusion: There was no heavy, leaking, damage on the bottom of the ship and there were no more leaks, from outside into the ship in total than the two, found in the Port-chine, in Hold nr. 2.

Regarding the 'valuation' in the report, my client reports as follows: All of the life saving equipment was new. All of the pyrotechnical distress equipment was new, also all of the charts, Pilots etc. All of the emergency lights were new, etc. etc. There was new Classification on the ship, not a Dutch Classification, but the destination and purpose of the ship did not require such. The 'valuation' of the scrap metals in your report is not realistic, except from the fact that the ship was not just scrap. Contrary to this report, the ship had a very decent value as a ship, not scrap. In this view, it is very peculiar that the Government had ordered the demolishing of the ship, and on such a short notice. I wonder on which grounds of Law she has done so. Except from this, she could have had easily waited a while with this order. There was no ground what so ever, for such a hasty decision. In this view, I point out to you that the Police Adjutant Kamp was been informed about the presence from Mr. Ooms on the ship, on Sept. 24, 1979, being the potential buyer for the ships engines. On the spot, Mr. Ooms made an offer to my client of f. 30,000- for the engines, which offer most probably could have had been raised through negotiations, if there was the time left to do this. I hope to provide you on short notice with the details about the weight, and real value from the ship as scrap metal, for the daily prizes at that time. I end this letter with my repeated request for the Police statements in the case, with the remark that I rather prefer a straight refusal, instead of no answer at all. If you do not send me these documents now within 48 hours, I will file a complaint that you are refusing me these documents. I regret that I have to force you in this way, but I am running out of possibilities on this one. Yours truly, E. Fleskens

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: Mr. E. Fleskens

November 5, 1979

Case: State/Theunisse

Dear Colleague,

Meanwhile, I took over this case from my Partner, Mr. Bouma. Since there is a conflict raised between our clients, I do not see it necessary to provide your client with any kind of documents from my client. Yours truly, Mr. S. E. Gratama

So much for normal every day politeness. And for my rights as a civilian from the Dutch State. The first thing one might expect from ones Government is a normal and respectfully behavior, also in a business deal, also in a discussion about such a deal, as well as in every other aspect from society. I am feeling really upset now, also very angry, and decide to go full power now. Much later, it will show that me going full power is totally nothing, compared to the State.

So, another States lawyer was been appointed. Mr. Gratama appeared at the battlefield and started all over, on square one. Talking to my lawyer the first time, he even doubted that I indeed sailed out for salvage in the first place! At this moment, a very simple case in principle, of a small salvage-fee, ended, and the case degraded rapidly into the dragging on drama that the State obviously liked it to be. In answer on questions from the Second Camber of Parliament, The Secretary of Justice explains about the appointing and the behavior of the States lawyer as follows: "The State did ask the States lawyer to serve the interests of The State. For the procedural side of the case, the States lawyer is free to act as he sees fit." Logically, in this way, the results and consequences, good or bad, are for the State.

Oct 29, 1979. All witnesses were called for, in writing and according the Law.

Nov 7, 1979. The State asks in writing for a postponement of the hearing:

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: the Districts-Court at The Hague.

Case: State / Theunisse

Honorable Sir,

On October 16, 1979, Mr. Fleskens, on behalf of G. A. C. Theunisse, filed a request to Your Court for a preliminary hearing of witnesses. Although Mr. Fleskens knew that our office was acting on behalf of the State of the Netherlands in this matter, -first, my colleague, Mr. Bouma was been assigned to this case, and

after him I am handling this case - Mr. Fleskens did not consult us about his request, nor did he inform us. I do regret this, because now we were not able to convey our dates of inconvenience to Your Court. The ruling of Your Court on this request is handed over to the State in the meanwhile, and sent to me, which ruling shows that the hearing will be held on Monday, November 19, 1979, and that seven witnesses shall will be heard.

Considering the fact that I shall be very much occupied and not able to be present at that date, I respectfully request you to point out another date for the hearing. Considering the fact that after November 19, I already have a great number of appointments, under which, two large pleas on November 28 and December 3, I would appreciate it much, if the hearing could be held after this last date. Furthermore, it appears to me, that hearing all of the seven witnesses on only one morning can be complicated. I will add to this that the witnesses 2 – 7, maybe are not allowed to be absent from their duty, all at the same time. In this point of view, maybe it is worth to consider, reserving two days for the hearing. Therefore, I am now conveying to you, my dates of inconvenience after November 19: 21, 22, 27, 28 November. 3, 5, 6, 11, 12, 13, 14 (afternoon), 19, 24 – 31 December. 1 – 7, 11, 18, 30 January.

Furthermore, before the Court at Arnhem is a plea-ruling pending, on the date of which plea probably shall will be ruled in January? I regret that, because I wasn't been informed in time about the request for the preliminary hearing, I now have to bother you with this. Copy of this letter, I send to Mr. Larèt. Respectfully Yours, Mr. S. E. Gratama.

Mrs. Van den Heuvel en Fleskens, Lawyers & Procurers

November 9, 1980.

Case: Theunisse/State

To: The Honorable Sir, Mr. D. Reisig, Judge-Commissary,
Districts-Court, The Hague, Juliana van Stolbergstraat 2, THE HAGUE.

Honorable Sir,

With great amazement, I have read the letter addressed to you by Mr. Gratama at The Hague, dated November 7, 1979. Mr. Gratama is requesting a postponement from the preliminary hearing, which shall will be held on November 19, 1979. By writing as well as by telephone, I have conveyed to the contra-party, my decision to file a Court Procedure, and I have asked them if I could assume that, the State for this case, would choose domicile at the Office of Mr. Bouma. Mr. Bouma refused this pertinent, so the only thing I could do was to call the State, by

sending the documents to the High Court at The Hague, immediately after your decision about the date of the hearing.

I now fail to understand the complaint about my formal way to call the State, because of the formal attitude from the States lawyer. We are speaking here about a preliminary hearing of witnesses. In case the presence of Mr. Gratama is necessary; I think that he can also send a substitute. The attitude of Mr. Gratama is even less understandable, now he is pertinent refusing to send me the official statements from the Police in this case, and because of that, I do not have other possibilities on short notice except a preliminary hearing to establish the facts in this matter. In my request, I have explained in length why I wish for a hearing on short notice. Granting the request from Mr. Gratama for postponement would entirely frustrate my action. Therefore, I have strong objections against a postponement and I am asking you not to grant Mr. Gratama's request. I emphasize here that Mr. Gratama did not consult me about his request for postponement, as good customs require. Respectfully yours, Mr E. Fleskens. Copy to Mr S.E. Gratama and Mr R. Larèt.

Nov 9, 1979. A Member of the VVD party from the Second Chamber of the Parliament is asking written questions, addressed to the Secretary of Justice, with, among other things, the question if I shall receive on short notice, the Police-statements in the case.

Nov 12, 1979. On order of my lawyer, valuation-bureau Berex at Rotterdam is appointed to conduct a valuation of the ship Magdalena. It must be based on the extended information and details in the report from the 'Ships-Service' from Department of Water, (who valued the ship on the amount of f. 15,000-), plus my salvage-report, and by answering by me, his much questions with respect to the condition of the ship. Berex values the ship in his Report, number 9114/67/D, to the amount of f. 180,000-. The costs for this valuation are f. 4,554.80. (See App. 3) The ship was vanished. To be able to replay on the blabbering bullshit from the 'Ships-service' about the value of the ship, I was forced to make all these expenses. Will you please keep record of the costs for me until now? The salvage itself, hiring a lawyer, valuation, hearing of witnesses. And all of this because the Government did not thought it necessary to provide me with the needed documents. For her, I was just another jerk of a 'contra-party'. No, dammit! I was, and I am, a Civilian of the Dutch State, who was just expecting a decent behavior from the (his) Civil Servants of the Government!

Nov 16, 1979. The Government, with the voice of the State-Lawyer, orders four of the seven called on witnesses, to NOT to appear on the hearing from Monday, Nov. 19. The State-Lawyer is conveying this message by telephone to a third person, a not involved and non-suspicious Police member from the Group Willemstad, Mr. Petersen. But...? They were MY witnesses, called for by us! One of the witnesses, one who got suspicious about this order, called me after they had received the order, checking if this was thru, and I on my turn called my lawyer. He contacted at once by telephone with the State-Lawyer, who confirmed bluntly his order, with the motivation that all of the witnesses are in Government service, and that their employer, the Government thought it better if the witnesses stayed home. Meanwhile, the Policemen involved became very confused, and angry, about this "move" from their employer. Of all people, they know that they are obliged to appear as a Witness and give Testimony when properly called for. The States lawyer sticks to this decision, in spite even of being been called late at night by the Dean from the Lawyers-Inspection-Counsel, Mr. Utermarck at The Hague, who was called by my lawyer in despair for an advice. Now, you can take for the truth the following from your storyteller: Mr. Gratama is a very slick old crack, and a very experienced Partner from the office of Pels-Rijcken & Droogleever-Fortuijn, the office from the State-Lawyer.

He knew on beforehand that this action would stir up a lot of dust and that trouble would be imminent for him. He knew for sure that he had done something very wrong, and that for sure Mr. Fleskens would not agree with it. This move was just too much, completely out of the proportions of the case on hand! Nevertheless, he did. Why? What circumstances were there so very important that he was willing to put everything on the line, including his imago and reputation, and take such a big risk for? A salvage-payment, a little more or less maybe, for a mini salvages Company. Please, don't make me laugh!

Nov 17, 1979. An update article appears in Elsevier's Weekly Magazine.

Nov 18, 1979. Again, we have called on the four witnesses, this time by cablegram, which again got orders to stay home. This time by the Group-Police-Commander Adjutant Kamp, who was pressing and threatening them to ignore our calls, although they were obliged according the Law, to go to the hearing. These involved Policemen, were threatened with the immediately loss of promotion chances and even with the loss of their job.

Nov 19, 1979, early in the morning, I approached the four Policemen again by telephone, with the question what they were planning to do. One was close to a nervous breakdown and out to see a doctor. One answered the phone, started to cry, and told me, he would not come because of the pressure from “high up.” The two other told me the same facts. Only three witnesses appeared in Court that day. The Judge-Commissary emphasized that he wished to have nothing to do with the non-appearing from our witnesses, and also not with the behavior from the State-Lawyer. My lawyer immediately filed a complaint against the State-Lawyer at the Disciplinary-Court at Utrecht. Later, this Court finds the behavior of the State-Lawyer in this event worthy for a complaint and he gets a ‘reprimand’. Oh Boy, a big blow that was! Meanwhile, the damage was done and irreversable!

During the complaint proceedings from my lawyer against the States lawyer, Mr. Petersen wrote a letter to Mr. Fleskens, containing the exact words from the conversation he had with the State-Lawyer about the order to prevent our witnesses from showing up at the hearing. Mr. Petersen had also serious doubts about this order ‘from The Hague’. However, he could do little other than conveying the order to the Policemen involved. Nevertheless, since it was such a strange and uncommon order, Mr. Petersen was able to remember exactly the content of the telephone call he had with the States lawyer. Read in the following how the State-Lawyer is defending himself during the complaint-case, and observe his remarks about Mr. Petersen, he thought it necessary to make out from his ‘castle’ at The Hague. I know Mr. Petersen as a wise, friendly, and experienced Policeman, who was able to teach me a thing or two about my own trade. Mr. Gratama, the States lawyer cannot even just stand in his shadow. (See App. 4)

For me, it was of great importance to have the witnesses heard in a certain sequence. The Court had also agreed with this. If Mr. Gratama really did not understand why this sequence was important for us, he better does not call himself a lawyer any longer! Confronted with many troubling things against the State, during the hearings, Mr. Gratama starts yelling at me across the Courtroom: “Start your Procedure before the Court Mr. Theunisse; than I shall keep you busy for the coming years, up until the last resort!”

(I already knew that the State sometimes, most of the time, starts Procedures before Court, in the Maritime sector, for ridiculous cases like a bended light post or a scratched fender in a lock, or another stupid little thing, to get her rights.) This attitude did not appeal to me and was also too expensive for me. Moreover, all this yelling and screaming is entirely contrary the primary obligation of a lawyer to

prevent Court-Procedures as often and as much as possible! The Judge-Commissary sets a new date: December 21, 1979, for the now necessary second session in the hearing. For me it is as if I'm being suddenly transferred into the novel 'The Castle', from F. Kafka.

Nov 22, 1979. The Second Chamber addresses more written questions to the Secretary of Justice, this time about the messing around with the witnesses, by the State-Lawyer.

Nov 26, 1979. In spite of the strongest objections from my lawyer, I travel to The Hague, to the Department of Justice, in an effort to talk things over once more, make friends instead of enemies, maybe even doing a little business. I speak for several hours with the Mrs. Tazelaar and Bos. Again, this visit turned out to being useless, like all others for that matter. However, one thing Mr. Tazelaar said I keep in mind: "Mr. Theunisse, if after a long time it will turn out that you were right from the beginning in this case, you will get paid for, even if that means a very large amount of money." I burry this 'promise' deep down!

Nov 30, 1979. The Secretary of Justice is informing the Second-Chamber that to his regret, he is not able to answer within the set term on the written questions, because not all of the necessary documents are ready yet. (See App. 5)

Much later, I will learn that a Secretary is nothing or nobody really. He is at most a piece of decorum, a part of the stage props. The high ranking Directors and Chiefs from the Departments are calling the shots. They are making the decisions and policy and they can turn there thumbs on you if you make them upset. Only after they mess up things really bad, the Secretary becomes useful for them. He can be forced by the Second Chamber to answer the tough questions, and if that is proved too difficult: Well, he can always resign then. The big shots will stay, naturally. Who gives a damn anyway?

Dec 11, 1979. The 'Ships-Service' - on request of the Department of Justice - sends to them, a reviewed valuation of the motor-ship Magdalena. The Service estimates the value now on f. 29,200-. However, they write, this figure is influenced by the forced and fast sale of the ship, with the result that the value now really is only f. 15,000- ? The comment from the Service on the valuation of Berex BV of the ship is what they call: "confusingly optimistic."

Dec 14, 1979. At last, I receive the documents and reports, made by the Police about the salvage, for which papers we were asking a long time. There can only one possible conclusion be drawn from these documents: Of course, I did receive a salvage order, and of course, I carried out a successful salvage.

Dec 21, 1979. At The Hague, the second session of the witness hearing, in the case of the 4 witnesses - whom were forced to stay home - is taken place. There is a large audience: several Policemen, under which Mr. Kamp, the lawyers, and me. Also present is a group of Law-students: Sometimes, with certain cases if nobody has objections against it, they, for practicing purposes, are been allowed to be present in a Courtroom. I had no objections what so ever. During the session, all of the witnesses are unanimous in there statements: YES, I did receive a salvage order. And YES, this order was given on the No Cure-No Pay condition.

A very young, honest, and upright Policeman - not yet deformed by the daily disillusion and wheeling and dealings of his job in the Police force – produces in front of the Judge-Commissary, under Oath, a copy from his original written Statement about his findings as a member of the Police force, onboard of the ship Magdalena during the salvage. He had this statement written and conducted together with a colleague, the Engineer from the patrol boat, the RP-9, and both of them onboard Magdalena during the salvage. This Statement, HIS STATEMENT, for which he obligated himself under Oath as a Policeman, was later on, written over by another, third member of the Police because he had refused to do so. This happened under force and threats from Commander Kamp, who then dictated certain changes and sentences, and who was intimidating and threatening this young Policeman in such a way, that he at the end, undersigned the completed and falsified statement.

Now, in the Courtroom in dead silence, he raised his hand from his uniform-pocket with in it the copy from his original statement and he offered it to the Judge, saying, "This is my statement. It is the truth, and I stick to it."

The Judge arose up out of his chair, took the paper, his face turning blue and pale, opened his mouth and shut up again, looked very embarrassed around in the Courtroom, as if in desperate search for help, and sat down again. Nobody was saying anything for a while.

The Law-students, with tight faces, sat down in the back of the room and forgot to take notes, their pencils hovering above their notepads. Even this idiot, the States lawyer was silent for a moment.

If an ordinary Citizen is falsifying official documents, and/or starts lying under Oath in a Courtroom, and the Judge becomes aware of it; he will get arrested on the spot and locked up, waiting on going to be accused of fraud and perjury, and being sentenced and punished seriously. After the session was finished, Mr. Kamp however walked out freely to go home. This indeed was a very tragic and sad moment for Justice, that day in that Courtroom. What on earth and in the name of everything is coming over me in this case? Why start people to commit very serious crimes like this, in a case of total and utterly insignificance to begin with? Moreover, it is getting worse...for years to come.

A third session of witness hearing is set at the end, for March 18 1980. Now to hear a State-witness, Adjutant Verveer from Dordrecht who was present on the day I first offered my salvage-claim to Mr. Kamp.

Dec 24, 1979, before noon I try to get in contact with the Districts commander from the Police-Headquarters office at Dordrecht, Colonel Mensert-Spaanderman, the superior from Mr. Kamp. First, I do not get to him because he's already on his vacation address for Christmas. Nevertheless, later that day, at 16.00 hours, he calls me back, and we speak for an hour and a half. The Colonel agrees fully with me that I have the right to be paid for my work but he cannot help me with it because, he says, "You are already busy with our big Boss at The Hague." I ask him urgently to intervene in the case...



The degrading of a fine vessel...



Another rope is been hauled out to try again. The ships' list is slowly increasing but still aground.

Chapter 4 NEGOTIATIONS

Jan 5, 1980. Again, I call the Colonel and ask him if he has taken any action meanwhile. No, he did not. He thinks everything is very difficult and annoying etc. A few days later on an evening, I receive a phone call from an anonymous person. Asking for his name, he answers "none of your business"; who claims to be from the Districts-Office at Dordrecht. He tells me that I have to stop now immediately with my 'actions' against the Police, and making them their lives miserable, and if I do not they will see to it that I am going out of business very soon; "You are not the only Salver you know, there are others, be advised!" Many years later, I learn that this person indeed was in service on the Districts-Radio-Office at Dordrecht. Then, at that time, I have recognized his voice again and could put a name on him. Meanwhile, this was a very intimidating experience for me.

Jan 7, 1980. Again, I ask the State for a meeting about the case.

Jan 11, 1980. The State starts to whine and complain about the fact that on a regular basis I appear in various Newspaper-articles, in which I am painting a very negative picture of the State in the course of this case. Your storyteller in this respect points out that the very first articles in newspapers about this case came from Mr. Kamp: To be precise, on the 3e day of the salvage, September 25 1979. Mr. Kamp gave a press conference that day, telling the Press among other things "On Sunday September 23 we chartered the salvage ship Furie-2 on a No Cure-No Pay basis."

Because I could not in no way find myself in the policy, until than followed in the case by the State, one may even assume that I was becoming very angry and very upset; I ventilated this in all honesty and openness to the Press. This is perfectly normal. It's called, Freedom of Speech, and Freedom of Opinion. It happens every day in matters concerning the State. The Opposition is beating up the Government-Parties. The Government ridicules the Opposition. The Members of Parliament are fighting – verbally, most times - with each other. Civilians do not agree with Government policy and decisions, etc. Just another perfectly normal day is going by. However, for the bureaucracy at The Hague it's not ... Also, is not it suspicious that the Sates-Lawyer is acting so sadly about the writings in the Newspapers from his adventures? Maybe he has something to hide. You will find out, later on in this book! Most criminals do not like publicity, or they play bluff-poker for a while, and are been exposed in the end. Just as a Mr. Kamp, Mr. Rijpkema, and Mr. Gratama and the like. Your storyteller had, and has nothing to hide and was not playing bluff-poker. He was and is only very upset and very disappointed in his Government.

Jan 17, 1980. In the newspaper, "Vrije Volk" (Free People) appears the first article from eight in this case under the headline: "Dossier at Thursday." On a regular basis, I am keeping contact now with Mr. Tazelaar from the Department of Justice, asking him repeatedly if he perhaps is starting to be a bit suspicious about the case: If it is not high time to start digging a little deeper? "No Sir. Not yet."

Jan 24, 1980, "Vrije Volk" Part 2. Later, the Reporters Geert Jan Laan and Rien Robijns will receive for their "Dossier at Thursday" the "Press Reward," a kind of Dutch Pulitzer Prize.

Jan 29, 1980. Now, the “Ships-Service” has “revaluate” the ship Magdalena to the amount of f. 29,000-, without further “what’s and ifs”, and no further excuses. Oh boy!

Feb 2, 1980, a round-up article about the case appears in the weekly-magazine Haagse Post.

Feb 7, 1980. The Secretary of Justice is answering in a vague and uninterested manner on only three of the bunch of questions, from the Second-Chamber of Parliament, in the case. I can recognize the (sick) mind and hand from the State-Lawyer.

Feb 7, 1980. The Government is reacting on my request from January 7 and we make an appointment for another meeting in The Hague on February 14.

Feb 8, 1980. Serious doubts are rising on the Department of Justice about the case, as “If we can hold on to our believe, that no salvage order is given to Theunisse?” In addition, they are placing big question marks around the swift and very cheap sale of the ship. Only, they keep this change in views inside, not showing any influence on the policy to the outside. I do not know about this, until many years later in the Report from the National-Ombudsman, these facts and a few more were unveiled.

Feb 14, 1980. I am on time at the meeting in The Hague. Present are two people, Tazelaar and Bos from the Department, my lawyer and me, and the Idiot. The State-Lawyer tells me in his opening speech that everything spoken about in this meeting is confidential and that no details shall be been revealed to the Press. If I cannot promise this, I do better to leave the room now. I am asking the State-Lawyer who the hell whose’ case he has in mind to discuss in this meeting, and would it not be a much better idea, if he takes his ass the hell out of the room, because I won’t miss him the least bit. Coffee is served after this little intermezzo. What on hearth are we talking about here? A very gloomy ten-year prospect of declining economy, with a dramatic impact on society? An upcoming War? A threatening, epidemic, rapidly spreading mortal disease?

In “The Grand Scheme of Things,” on the Governments side that is, we are talking about loose change for stamps, or dimes for the coffee-machine on the

corridor, which, by the way tasted like shit also. Then, a lot of legal bullshit follows, at the end concluding, "IF one could speak about a "salvage-order in this case," at most, this could only have been a "Civil agreement." (Later on, this line of thought from the State-Lawyer will become clear to you. For the time being: just remember that I saved the ship, "under custody.")

Meanwhile, I never asked for something better or different! Salvage on a "No Cure-No Pay" basis IS a Civil Agreement and nothing else! However, now a given salvage order is halfhearted and more or less admitted, there still is no reason for the Government to quickly rap up this case. On the contrary, the valuation report from the "Ships-Service" appears on the table to be been discussed. I make a few remarks, bring a few fantasy details and lies in the report to the attention from the States-Lawyer, and I advise him to better quickly close it. This is exactly what he does! Then, the States-lawyer produces his next rabbit from his magical hat. The sale of the ship from the first buyer to the so called second buyer for the sum of f. 28,000-, only a few hours after the sale from the Government, on September 25, Now, that is a good clue thinks the States-lawyer, to establish the value of the ship, based on which a salvage-fee can be paid to me. I tell him that I'm thinking about a down payment from the Government to me, for that amount to start with for covering my expenses so far. Nobody is reacting.

Feb 18, 1980. Again, I have a long phone call with Mr.Tazelaar from the Department, repeating my question about a more thorough investigation into the case, especially around the sale of the ship. Mr.Tazelaars' mood is going very deep. Mine is there already for a long time, so my compassion with him is minimal.

Feb 22, 1980. I make a phone call to the Court at Amsterdam and I got connected with Mr. Pieters, AFTER FIVE MONTHS! He is the Officer of Justice and the daft person, maybe you remember, in whose' name the salvage order was been given, and who sold the ship. He thinks, he is not to blame for all the shit I am in, thinks however that I am entitled to get paid, but thinks also that this is all very difficult and tragic, "but I have to quit this call now Sir." ...after exactly two minutes!

Feb 26, 1980. The Director-General from the Department of Justice is finally ordering a full-scale investigation, carried out by Internal-Affairs, in the case. They are waking up at last!

Mar 4, 1980, in the morning, I get visitors at home: The Detectives, Mr. de Louw, and Mr. Gaastra from Internal-Affairs, are starting their investigation, with first questioning me. It takes all day.

Mar 10, 1980. The questioning continued on this day, all day.

Mar 14, 1980. The State, Mr. Gratama that is, is letting me know that in fact, I have saved the ship for the real Owner, not for the Dutch State, so that for my payment, I also have to turn to the Owner. Also, he tells me that, in order to get a down payment, I have to transfer all my rights on the ships Owner, to the State!? Do I have any rights left then? I did not noticed them for a while, so sorry! Please remember this thought from the States-Idiot (sorry, Lawyer), in relation to the real facts of the matter, things as “under custody” and the like. I think a short recapitulation is appropriate here:

The Government is arresting the complete Crew from a stranded ship.

- “ “ is impounding the ship.
- “ “ invites your storyteller to save the ship and gives an order for it.
- “ “ is watching when the impounded ship is saved.
- “ “ is selling the ship, still impounded.
- “ “ invites your storyteller to present his salvage-claim to The Government.
- “ “ is lifting the impound of the ship only after arrival at the Wreckers place.
- “ “ did order a Demolishing Obligation as a condition with the sale.
- “ “ did order a Demolishing Time of 90 days as a condition with the sale.

To which “OWNER” the States lawyer is referring? I am asking you!

The original, real Owner had totally lost his authority over his ship. The last thing in the world, the Owner would have had agreed on, was this salvage, let alone that he would have had paid for it! The Owner would have had his ship being saved BEFORE Justice had impounded it...and kept it that way, and sold it lock, stock and barrel like a two-dime pawnshop. After that, the Owner had no longer anything to say in the matter, it was out of his hands. Later on, in theory, he could have had asked it back, when trial is due at Court about his illegal activities in Radio Broadcasting, which he had to expect and to face... Maybe. Mr. Pieters told Veronica Magazine: “Incase, the ship is demolished; he can have the money back, after extraction of our costs, which are a lot.” On the other hand, maybe, he is entitled to something more...?

Mar 18, 1980. At The Hague, the third hearing of witnesses is been held. This time, from a States witness: Mr. Verveer. After the session, the Judge-Commis-saryis making his compliments to me, about this witness, whose testimony is indeed revealing and gold rimmed for me. However, it was a witness of the State. The strange ways, Justice can take!

Mar 18, 1980. The State tells us that she is willing to do a down payment from f. 10,000-, under transfer of all my rights. Also, says the States lawyer, they are thinking about a final salvage-reward of f. 12,000- to f. 14,000-... But with the condition that the State still had to approve this...Which proposal left me speechless, for a time? Nevertheless, from these words, one can see that the State still was in charge.

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: Mr. Fleskens Case: State/Theunisse March 16, 1979

Dear Confrere,

I noticed that in my letter from March 14, the amount of the down payment was not been mentioned; this is f. 10,000-. The preliminary witness hearings have ended now. In your letter from March 11, you are speaking of a possible settlement in this stage. Overseeing the results of the hearings, and thinking about the value of the ship Magdalena, I could support a settlement in the order of f. 12,000- to f. 14,000-. This is only my personal suggestion; the State has still to approve this. From your remarks, I understand that this suggestion is so far away from the ideas from your client that a settlement in this fashion seems impossible in my view. I will appreciate it, to receive the view of your client on this. Yours truly, S. E. Gratama.

Well, in my view, he is a hopeless fruitcake.

Mar 21, 1980. Again, I phone the Department of Justice and have contact with Mr. Bos. Again, we make an appointment for a meeting at The Hague: March 26 1980.

Mar 21, 1980. My lawyer is in for a little detour:

We summons both, Heuvelman Steel, the buyer and V/d Marel, the wrecker, of the ship, with the full amount of my salvage-claim, bearing on the ship as a prevalent debt: From which they were not freed. Let us see with what they will come up with.

Mar 26, 1980. Again, we travel to The Hague for another useless meeting, except for this: Mr. Gratama, the States lawyer who, very slowly but certainly, sees his case going down the drain, at one moment starts yelling again: "Okay Mr. Theunisse, you are right, absolutely right from the start; but first you try to get your money now Sir, just go ahead!" This in the presence of my lawyer, and the two gents from the Department. I refuse the silly proposal about the down payment of f. 10,000-. Instead, we make a new proposal to the State: To pay me now immediately the total sum for my salvage-claim plus interests and costs, up until now to an amount of f. 118,000-, and after this payment, the State can go to Court to demand this money back as a payment to which she was not obliged to do. I am in a better position in that way, twofold: My financial position is of the hook and, incase they pay me now, I only have to do defense before Court, and the State can quit the Procedure any time she likes. We think it is a fair proposal, with an honorable way out of this mess, for the State. They only are listening to us, with blank and dumb faces and without any comment.

Mar 27, 1980. Free-People (Part 3).

Mar 27, 1980. Heuvelman Steel BV en V/d Marel are protesting with the help of Mr. Jhr. de Savornin Lohman, Lawyer at Rotterdam, against my Summons for a salvage-claim plus costs on the ship. They argue that they did not know about a debt of a salvage-claim on the ship at the time they bought/demolished it.

Mar 31, 1980. We let them know that they have to deliver proof according to the Law, about the "Not knowing" of the debt on the ship. After intensive talks and consulting between our lawyers, we dropped the Summons against them in a trade out for important information regarding the selling transaction with the Government.

Apr 1, 1980. We confirm in writing to the State, our proposal about the States "none obligated payment" to me, with the request for a reaction. I'm still in frequent contact with the stubborn gents from the Department of Justice and I am asking them repeatedly to arrange for a meeting with their Boss, The Secretary of Justice, which they are repeatedly refusing. Mr. Bos: "Mr. Theunisse, I will personally see to it that you will not meet with the Secretary!" The silly beggar!

Apr 25, 1980. We request the Attorney General from the District of Breda to receive a copy from the report of the investigation from Internal-Affairs in the matter. Being the involved and damaged party in this, we are entitled to do that. Although he understands our request, he refuses it, also, it is not ready yet, he says.

May 12, 1980. Indeed, another questioning takes place at my home by Inspector Gaastra. Inspector Gaastra brings fine pastry with him, for with coffee. He concludes: “after hearing a great number of witnesses, from which hearings he is also not allowed to reveal any details, that my complaints in this case about the behavior of various Civil-Servants, until now, are rightfully, and legitimate up to a very high level.”

May 16, 1980. At the Department of Justice, they conclude: (Which the National-Ombudsman will prove years later in the investigation); that, if they do agree with our Proposal from April 1 1980, to do a “non obligated payment,” they almost certain will loose this Procedure before Court. A few days later, I receive in writing from the Government, the denying of our proposal. This proves again that the State is still responsible for this evil policy in the case. They DO NOT WANT a decent solution in this case.

June 6, 1980. The Government gives order for a THIRD valuation of the ship Magdalena, which is long gone into the melting pots by now. Now, they ask Mr. Dee from Dees’ Supervision, Shipping & Trading Company at Rotterdam to do the trick. Mr. Dee values the “paper ship” to an amount of f. 39,200-. To stay in sync with the valuation from “Ships-service,” Mr. Dee deducts f. 10,000- for costs, pumps, and transport, to the Wreckers place. Doing so, he achieves the exact same value as the “Ships-Service”: f. 29,200-. It looks like a bad joke at first sight, but keep in mind that we are dealing here with full grownup and responsible people! Oh, I almost forgot, Mr. Dee is a good friend of Mr. Gratama... (App. 7)

In an attached letter from Supervision, which we do not receive until during the first Arbitration, Mr. Dee is adding so much “ifs, what’s, and maybes” into his valuation that at the end, nothing is left over from his own taxation. Regarding the salvage claim, Mr. Dee says that a fee of 10,000-, plus a “premium” (?) of f. 5,000-, making a total of f.15, 000- will be sufficiently paid. About the transport from Willemstad to the scrap yard he says, the costs are f. 10,000-. This transport was

been entirely carried out on inland waters with two simple tugboats in a 10-hour trip. The total salvage, at open sea, including the transport, including repairs by diver, etc, carried out with two well-equipped salvage ships, and took 50 hours. "Hello! Are you still here? I'm kind of lost on this one you see."

June 18, 1980. Internal-Affairs are finishing the report of investigation.

June 20, 1980. We repeat our request to have a copy of this report, this time to the Attorney General at Den Bosch. Behind closed doors, people are working to arrange a meeting with the Secretary of Justice.

July 2, 1980. We repeat our request to the Attorney General, to receive a copy from the Internal Affairs report.

July 2, 1980. We ask via the VVD Party at the Second Chamber of Parliament and via the States-lawyer (!) to have a very urgent meeting with the Secretary of Justice.

July 4, 1980. In an extended letter to his home address, I repeat again, to have a meeting with him.

July 10, 1980. With not to many words, I refuse the offer from the State of f. 15,000-, as a salvage fee...Stick it up to your miserable fat ...

Aug 12, 1980. At last, I receive the report of the investigation, conducted by Internal Affairs. The report shows that the Group-Commander J. Kamp, from the State-Water-Police at Willemstad with a "Complex of devious acts and a web of untrue tales," had motivated the Officer of Justice at Amsterdam to sell the ship, with a great disadvantage for the State. That he also had very extensive influence regarding the sale of the ship and after that, took presents and money from the buyer. Also is stated that the Civil-Servant from the "Ships-Service," Mr. Rijpkema; outside is order, for only the taxation of the ship, had very extended business with the sale of the ship. Therefore did negotiate with the buyers, before he had finished his taxation, and after the sale, he modified his taxation to the meanwhile made effective sales price from the Government. This because he had a mooring-place for his weekend boat on the grounds of a relative from the buyer, free of charge plus a bottle of Gin...at the Ships Wrecker place, Timmerman at Ooltgens-

plaat; who is also a close friend from Mr. Kamp. The Timmerman firm also made a so-called “Supporting Offer” on the ship, although he was not able to demolish the ship, because the beam was too wide to pass through the Lock in front of his scrap-yard! (For the full investigation report, please see App. 9)



The situation is deteriorating, but Mr. Kamp is still not satisfied, pulling away like mad...

Chapter 5 INVESTIGATION

INTERNAL AFFAIRS, at 's-HERTOGENBOSCH, Director of Police.

To the Attorney General, P.o-box 90112, 4800 RA, BREDA.

REF: 6030—31 3/80/Ga.

's-HERTOGENBOSCH, June 3, 1980, SUBJECT: Report of investigation.

Honorable Sir,

By this, I offer you two copies of the report of Internal Affairs, nr. 60550—313/80/Ga, dated May 30 1980, in the case of the investigation by the Inspectors L. J. de Louw and S. Gaastra, regarding the facts around the salvage and sale of the motor-ship Magdalena o. k. a. Mi-Amigo. I may refer to the content of this report.

The Commissary of State-Police: Drs. W. A. Roebroeks.

INTERNAL AFFAIRS

Group of the ATTORNEY GENERAL at 'S- HERTOGENBOSCH

Pro Justitia, No. 6030-313/80A/Ga, Inspectors: L. J. de Louw and S. Gaastra

Suspects: About the additional questioning from J. Kamp at Willemstad (retired Adjutant from State-Police), in the case of the removal from the radio-transmitting-ship Magdalena. Following on the statement before Internal-Affairs at 's-Hertogenbosch no. 6050-313/80/ Ga, dated May 30 1980, and the additional report with the same number, did we: Laurentius Josephus de Louw and Sjoerd Gaastra: Both special Inspectors from the State-Police: , on July 15, 1980, at the Group-office-Willemstad:

Questioning Johannes Kamp, date of birth March 1, 1920 at Flushing. Address Jan van Tempellaan 36, Willemstad. After we had informed Kamp that he was been considered a possible suspect, and therefore not obliged to answer, he Kamp refused to answer in the beginning. After we had informed him that the questions were written down, and that he, incase he thought it necessary, could answer, or not, on every question separately, he was willing to cooperate. Hereafter are following the questions asked to Kamp, with his answers given.

Q: 1

On Sunday, September 23, 1979, is on order from officer of Justice –Mr. Pieters- the transmitting-equipment on the ship in custody, Magdalena, destroyed by the

members of the Radio-Control-Service-PTT. (Value equipment f. 256,000.-). Did you not think that your task ended then?

A: Kamp:

None of the present civil servants thought that our task had ended. The first task was to bring the ship inside. I am told in that time, that when it became clear that the ship was stranded, the O.O.Justice would have had been satisfied with the destroying of the transmitter-equipment. When the ship started to move again, it appeared possible to us to save the ship after all. We still regarded the ship as taken in custody.

Q:2

According the investigation is expert Rijkema on Monday, September 23, 1979, around 13.30 hours, approached by the State-Police, to make taxation onboard from the Magdalena. Colonel Spaanderman and Adjutant Verveer were in that time onboard a Police patrol-boat. Did you call Rijkema or the Ships-Service by telephone, at that time?

A: Kamp:

I did not call Rijkema or approached him otherwise.

Q:3

Timmerman has stated that you, on Monday September 24 1979, around 13.30 hours, called him, with the message that the Magdalena was leaking and in danger of sinking, and therefore should be been sold as soon as possible. Timmerman asked for the size of the ship, and when it appeared that it was too large for him, because he couldn't get is on his yard: He asked you if it would be all right to inform his Brothers in Law, the Heuvelman brothers, and introduce them with you as (the only) possible candidate-buyers. Is this correct?

A: Kamp:

This is correct.

Q: 4

In the explanation from Mr. Pieters, about that Monday, September 24, 1979, we read that the Magdalena made 12 tons water an hour; to be exact, 5 tons in the engine-room and 7 tons in the Holds. The costs for repairing the leaks were been estimated on f. 50,000-. Did you tell this to Mr. Pieters?

A: Kamp:

As far as I remember me, I did not spoke with Mr. Pieters on that Monday September 24 1979. I am sure; I did not tell him about this amount of leaking of the ship. In addition, I did not tell Mr. Pieters, that the costs of repairing the leaks were f. 50,000-, I mean, I cannot remember saying that. I do remember however that I told Mr. Pieters what Theunisse had told me about the ship: "the ship is completely rotten, it must be scrapped as soon as possible, and it must not been towed to the Storage-dock at Rotterdam to be laid-up." About the leaks and the costs of repairing, I did not speak, has far as I remember. This is the first time, I've ever heard about the amount of leaking water.

Q: 5

Monday afternoon September 24, 1979, Timmerman received two phone calls, regarding the sale of the Magdalena: One around 13.30, from you, and one around 17.15, from expert Rijkkema. Is it coincidence that both you and Rijkkema regarded Timmerman as the scrapper, who got the ship Magdalena presented? This regardless of the fact that he, has mentioned before, was not able to scrap the ship?

A: Kamp:

It is true that I have called Timmerman on that Monday, around 15.30 hours, and invited him as a candidate-buyer for the Magdalena. I asked him if this was something for him. Until now, I did not know that also Rijkkema had called Timmerman that afternoon; I see this as a coincidence. I do not know if Rijkkema has spoken with Timmerman about the sales price. I also do not know that Rijkkema had told Timmerman and Heuvelman that they were the only buyers for the Magdalena.

Q: 6

Rijkkema has stated that he that Monday afternoon at Willemstad did speak with Timmerman about the sales price of the ship. In addition, Rijkkema had told Timmerman and Heuvelman that they were the only candidate-buyers for the ship. Don't you think that your behavior and that from Rijkkema in this matter, we can qualify as "Unlawfully bribe-treatment of a third party"? As a Policeman, but also as a board member of the Belgian-Mission-Community, you could have known that more scrap-firms would have been interested in the buying of this ship

A: Kamp:

I did not feel that in my approach, I had tried to bribe Timmerman. This did not play in the background for me. I state here now that I have mentioned several times to Colonel Spaanderman, that I felled pity that no more scrap-firms were been

approached. From my experience, I know that there would have been more parties that could have had shown interest for the ship. I did not make these remarks to the Colonel that Monday afternoon but later on. I only have called Timmerman because I had doubts about his possibilities. I was not sure if he could be a candidate for buying. Timmerman is the closest yard to Willemstad, (less transport). You say that you think it was too soon on Monday, September 24, around 13.20 hours, to approach a buyer for the sale of a ship under custody.” (Reporter is pointing out to Kamp that this sale was not the responsibility of the Police but of the “Service of Dominions”). “I only see my approach to Timmerman as a form of information.”

Q: 7

A large number of witnesses have given their views about the situation of the Magdalena. I concluded that the ship was not in great danger of sinking. With the help from two little pumps, the situation was in fact quite normal. You know that the Officer of Justice only in very urgent cases can decide to the “Removal of goods under custody.” You have had a conversation about this aspect with Cornelis Heuvelman. There and then, you gave to him the example of an Illegal catch of Fish, which will go bad if kept.

Considering the statements of all these witnesses –with experience in the shipping sector and therefore can be seen as experts - one can say that you have misled Mr. Pieters. One can speak here from a “Complex of devious acts and a web of untrue tales.” In addition, from your answers on previous questions in this investigation, one could get the impression that you did not have spoken the truth.

A: Kamp:

Like I have told in my answer on Q: 4: I did spoke with Mr. Pieters about the situation of the ship. I did not transfer other information to Mr. Pieters than I did receive from Theunisse.

Q: 8

Did you know about the presence onboard of the ship from Mr. Ooms, from Bogenda BV? It is possible that in the talks with Rijkema, the point of other candidate-buyers was been mentioned.

A: Kamp: I do not know.

Q: 9

Did you try to sell the Magdalena that Monday, September 24, 1979, in the afternoon?

A: Kamp:

I did not have anything to do with the transaction. I do not know who did. Even now, I still do not know who sold the ship.

Q: 10

According to the statements of the Heuvelman brothers, they received, in the morning of Monday, September 25, 1979, already the information, by telephone, that the ship was been granted to their firm. Mr. Pieters decided on September 25, 1979, at around 13.30 hours about the sale of the ship. The Heuvelman brothers are declaring that they received this information from you. Is this correct?

A: Kamp.

I did not give this information to the Heuvelman brothers.

Q: 11

How did you acquire the possession of the ships bell of the Magdalena?

A: Kamp:

I have received the ships bell from Heuvelman after I have asked for it.

The hearing of Kamp, started at around 08.00 hours, went on very difficult and slow. Although his attitude was not hostile, he was accusing us investigators, of subjectivity. At 10.30, Kamp told us, he had an appointment with a doctor. The two last questions, he answered already standing, and started to leave the office. When we asked more specific about the last question, he left the office. Because of that, there was no opportunity to read his statement back to him and to invite him to underwrite his statement. From which we made under Oath this report, signed and closed at s-Hertogenbosch on July 16, 1980. The inspector 1e class from Internal Affairs, L. J. de Louw, and the inspector from Internal Affairs, S. Gaastra.

INTERNAL AFFAIRS REPORT

Nr. 6030 - 313/80/Ga

From: S. Gaastra - inspector from Internal Affairs –

To: The Commissary from State-Police 1e class, assigned to the group of the Procurer-General, Director van Police at 's-Hertogenbosch.

Case: The Removal of the Radio-transmitter-ship Magdalena and the questioning of the Adjutant (retired) J. Kamp.

With referral to the report number: 6050 -80/Ga dd. may 30 1980, I inform you as follows. In this report (page 137) is been stated that- considering the statements of several witnesses - the Adjutant J. Kamp should have been questioned once again. This could not be been done because Kamp stayed abroad. The second questioning should have been be related in an additional report. Already after the first hearing, Kamp had showed little agreement, to be been heard again in this matter. Reporter thought it necessary to questioning Kamp again, but this could only take place after hearing several other witnesses. These were the people who on the day before the sale of the ship under custody, witnessed that Kamp was busy with activities to persuade Mr. Pieters, -in my view unrightfully - to decide to sell the ship quickly, because the ship was supposed not to be fit to be laid-up.

To make an appointment about a date and time for a hearing, reported did have several times contact by telephone with Kamp, which at the end resulted in a meeting at his home in Willemstad on Friday June 13, 13.50 pm. When that afternoon, after an opening talk, reporter wished to go thru the written questions with Kamp, he told reporter that I had to count-in the fact that he –Kamp- had only 30 minutes time because he had to go to Zwijndrecht. On my question why Kamp had such an urgent meeting at Zwijndrecht, he told me that this was a private matter and of no concern to me. From is whole attitude, it was clear that Kamp was not willing to cooperate in the investigation. Because of that, reporter did convey to Kamp that he could not appreciate his attitude, and told him that the proceedings of the investigation were to decide upon by the Attorney General at Breda. The upfront written questions and the following explanation from it are been enclosed with this report. 's-Hertogenbosch, June 18 1980. The reporter, S. Gaastra

Explanation on report:

During the questioning from a number of witnesses (8-10), who have gathered a lot of experience in the shipping sector, became clear that the leaks from the ship

Magdalena where not as such that the ship was not fit for being laid-up for a longer period of time. As well as Kamp, as also Rijkema, have in their function, years' long experience with the situation and condition of ships.

The Officer of Justice, Mr. Pieters, on Monday, September 24, 1979 -being the day after the salvage - received from Kamp the message that the Magdalena was leaking 12 Tons of water an hour, specifically: 5 Tons in the engine-room and 7 Tons in the Holds. The costs for provisional repairs would be around f. 50,000-. To do the repairs, it would be necessary for the ship to be been towed away. He was in doubt if the "Department of Water" would have had allow that. Also was been told to Mr. Pieters that afternoon, that the Storage-dock was full. Mr. Pieters writes about this:

"Overseeing the matter, I can state clearly that; by these alarming details about the ship from Adjutant Kamp, with or without the cooperation from expert Rijkema; I was persuaded to use the possibility laid down in the Law (Art. 117, Sv), to the removal of the ship, with great financial damage for the State. Normally, I would have had ordered for transferring the ship into the care of the "Service of Dominions. With also my remark here that in this affair the people from the Radio-Control-Service were the leading party in the matter, and the Police only was acting in a serving role."

Out from the investigation is raised the suspicion that Kamp had the desire to, unrightfully, give a present to a third party –G. Timmerman-. Because, even before the Magdalena was towed into the harbor at Willemstad, Kamp had contact, by telephone with his friend Timmerman, with the question if he was interested to buy this ship for scrapping. At this contact, Kamp had told Timmerman also already about the possibility that the ship could be been sold that same evening already. In this contact, Timmerman asked Kamp about the dimensions of the ship. Then it became clear that the ship could not pass thru the Lock in front of the yard. Then Timmerman asked Kamp if it was okay if he informed his brothers in Law, Heuvelman. Kamp agreed with that. The investigation made clear that Kamp took the initiative to find a buyer for the ship. By means of a web of tales – giving information about the situation of the ship- that was untrue or only partly true -, he persuaded the Officer of Justice to the Removal of the ship.

Regarding the jurisprudence (H.R. December 20 1940, NJ 365), the Government is obliged to take care about the interests of the Owner in the case of goods taken in custody. She is only been allowed to sell for a reasonable price. By selling for a price far below the real value of the goods, the Government is acting unlawfully

with the goods of the Owner. Kamp presented himself, and was acting as the Civil Servant who was guarding the Magdalena until the transfer to the Service of Dominions. In addition, Kamp has conducted the Bill of Sale, and undersigned this together with Heuvelman. Kamp did not approach other candidate buyers for the sale of the ship. The impression is been made that Kamp needed a quick sale, to prevent that other interested parties would show up for the ship, or for parts of the ship.

Second: Suspicion exists that Kamp is guilty of accepting a gift. From statements of some of the witnesses became clear that J. Kamp, had warned several times the people from the Police and the Crew from Theunisse, for theft of goods before and during the salvage, left on the ship Magdalena. Therefore, the ships-bell (value f. 250 – f. 500), was taken by Kamp and put in safety. After the sale of the ship, Kamp asked the new Owner of the ship if he could keep the ships-bell as a present. After that, Heuvelman had given the ships-bell, which was been brought in safety by Kamp, to the Civil-Servant J. Kamp.

Enclosed here are the questions, which on June 13, 1980, I would have asked to Johannes Kamp, Adjutant (retired) from the State-Police. As stated in my report, Kamp did not cooperate. I would have had told Kamp in advance that he was a possible suspect, and not obliged to answer.



Salvagetug Fury-2 engulfed in fury!

NO CURE-NO PAY



Versus

The Dutch State

De MI-AMIGO Chronology

By

Geert Theunisse

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Part-2



Finally, they succeed: the ship is afloat, and capsizing, and sinking...

Chapter 6 THE SECRETARY

Meanwhile, the superiors of these two Gentlemen-Inspectors, from down under up to the very top of the Department, have committed themselves so tight to all fairytales and lies that there is obviously no way to return on their desperate steps, and they are just hoping for the best. Remembering the wise and thoughtful words of the Director of the State-Police, Mr. Grosheide, to one of his colleagues from the Department of Justice: “Just let this Theunisse character swim for a while, He will drown in the end!”

Because, if you thought for a moment that after this report, by this time the Government would have made her apologies to me and pay me my ever growing bills at last. Think again... Nothing happened.

Did you noticed by the way what can happen if stupid people - I mean really stupid people, who are rare, for instance the kind like this Kamp and Rijpkema fellows - start to interfere with the simple every day jobs as we are talking about here. I mean, this was in fact a not too big routine salvage job. I have done many of those things that were far more spectacular and also far more lucrative, to be honest. Yet, because of the interference of these two colossal jerks, a simple case like this, which normally takes at most 10 pages letter size to finish up, invoice and payment included, could become this paper nightmare, which will probably never end.

Not all the time since the salvage was been wasted tough, on the Government side I mean. They desperately needed all this weeks and months, needed to cover up all their mistakes, faults, and stupidity's that were the results of people doing things which were too difficult for them. On the other hand, for which they were too indifferent, uninterested, and arrogant.

Like this one for instance: Pieters claimed that Smit-Tak had told him; (Saturday, 09-22-79), salvage would cost f. 300,000-, and that the ships value was only f. 15,000-. He is lying his head off! Smit-Tak will never say such a stupid thing. That's not the way in which they got so big and famous! They will never degrade their own job, and by that their salvage fee, by telling the client that the value of a ship is that low. On the contrary, the value of the ship and possible cargo must be as high as possible, since a percentage of the saved value is one of the minor but still significant tools used most of the time to establish a salvage fee. Therefore, in this case, now the Government had sold the ship for f. 14,000-, they had to do something with this first sign of the value of the ship, and look! They took away one zero from the figure given by Smit-Tak, and there it was: f. 15,000-!

They also needed time to influence the witnesses: They did that in a rather blunt manner. Like Kamp did with his own nephew, engineer P. Kamp, God forbid! Like with falsifying official reports. Like with intimidating your storyteller. Above all, like with the disgusting conduct of the high classed States lawyer, together with the brass from the Department. These are in fact the real bad people here; because they can ignore any facts, any signals, any pleas, because they have the power and the infinite arrogance that goes with it, on too many occasions. In addition, of course they needed time to construct a strategy; to keep me at a distance! However, I did not have that much time to play their stupid games, because I just needed my money. Therefore, since we heard nothing, we had to pick up the trail again and restarted grinding away...

Mrs van den Heuvel &Fleskens, Lawyers & Procurers

To Mr. Gratama, States lawyer.

Dear Colleague,

Your letter from June 30, 1980, I received well. I appreciate the efforts of the State for trying to settle this problem, at last, in a reasonable manner. Client had to wait for that almost a year now. I am still awaiting an answer on my letter dated April 29, 1980.

His Excellence, the Secretary of Justice has recently answered a number of Questions from the Second Chamber of Parliament. After that, the Secretary conveyed, that he was willing to speak about this matter once again. This in line with his earlier informal statement that he is ready, together with the States lawyer, to meet with my client and me, under one condition he said, that there would be no demands in advance, on both sides. I am convinced that a meeting like this can be very useful, and I share His opinion about no prefixed conditions. Completely in line with this, I think it is perfectly reasonable that no answers are been given on propositions of both parties, so we can think over about our positions, after the meeting with the Secretary, and which positions probably will depend on the results of this meeting. The summer recess is imminent. Also almost a year is gone after the salvage.

If the Secretary is serious in his intention to settle the matter, this meeting must be held at a very short notice. Meanwhile the investigation by Internal-Affairs is also finished and is the report handed over to the Attorney General. The facts in this report are completely in line with the story of my client. I think it appropriate that you ask for these documents and read them. I think, they will provide very well for updating the viewpoints of the State in this matter.

Based on the above mentioned, I request you to arrange the meeting with the Secretary on short notice, while of course I am very pleased that the Secretary in person is willing to intervene in the matter. In this line I ask your attention for the fact that the answers to the Questions from the Chamber are such that I recognize your point of view in this matter. Of course, I have no objections against that, but fact is that the Secretary is identifying himself now officially with your own viewpoints. I think, doing this, he is running into a political dangerous field. He is now basing his position on a number of loose and unknown paragraphs out of various reports and notes. However, these reports and notes are not allowing, in no way, the conclusions drawn from them by him, (you), and reflected in his answers to the Questions from the Chamber. I think it would be therefore wise for the Secretary to make himself familiar with the real facts of the case before we have this meeting.

This meeting will only have a chance for success if the Secretary himself can make up his own mind, based on the facts, while a meeting probably will be useless if the Secretary will keep the viewpoints as they are developed by you and the civil servants from the Department of Justice. May I expect your quick answer, thanks in advance? Yours truly, E. Fleskens,

Aug 18, 1980. At last, I have a meeting with the Secretary of Justice in the building from the Department of Justice, from 12.00 to 13.30. Present are:

The Secretary of Justice, Mr. J. de Ruiter.

Chef of the Cabinet, Mr. Nelemans.

Mr. Bos, from Police Division.

Mr. Gratama, Lawyer of State.

Mr. Fleskens, my Lawyer, and your storyteller.

The Secretary takes at once distance from the line of policy from the State until now, and we agree to ask an Arbitrator to settle the matter, based on the "Lloyds Open Form" conditions. The Secretary is proposing to ask Professor Mr. Schadee of Rotterdam for this arbitration, He is associated with the Law firm Nauta & van Haersholte. The Secretary is introducing Prof. Schadee to me as an Expert on this Maritime field, and as someone: "Who has no ties what so ever with the Government or with you Mr. Theunisse." In addition, we agree that we will not let know the arbitrator about the quick sale by the Government, and about the very low price the Government received for the ship. We agree that the arbitrator shall establish a salvage fee for an imaginary ship, equal to the Magdalena and being under equally conditions as the Magdalena. In addition, we agree that the arbitrator will look at the possibilities, in the Lloyds Open Form framework, for granting additional payments for costs made for legal assistance and such, everything in a wide sense. Interests and costs for arbitration will be been paid for by the State. I think it is a very workable idea, and I agree gladly with this offer from the Secretary.

Alas, this meeting was not been officially recorded, and no official Agreement was signed. Later, this will be been used against me in a most devastating manner. They will argue that I, being a minor greenhorn of a Dinky-Toy salver person from Dinteloord, could be so stupid to believe a Secretary of Justice from the Dutch State, Mr. J. de Ruiter, on his word. Being a Professor and Lawyer! In addition, that I did not demand after the meeting to have this agreement being typed out, word by word, and undersigned by His Excellence, because I was simply not allowed to believe him!

Aug 19, 1980. In a Press release, the Department states that after my meeting with the Minster arbitration we agreed upon arbitration, and that this arbitration will take 4 to 5 weeks to be finished.

Aug 20, 1980. My lawyer has conducted a TRUTHFUL report from the meeting with the Secretary and has it send to the States-lawyer. (See App. 10)

Aug 20, 1980. The States-lawyer is also mentioning the meeting by letter, but this is very brief and contains only the request to Prof. Schadee if he will act in this case as binding advisor.

Aug 22, 1980. My lawyer is protesting against the letter of the States-lawyer because of the very brief and inaccurate request for arbitration.

Mrs Van den Heuvel Buijsrogge en Fleskens

To: Mr. Gratama, States lawyer.

August 22, 1980. Case: Theunisse/State Subject: Concept-letter,

Dear Confrere,

In the above-mentioned case, I received well your letter dated August 20, 1980. The report that I have made is more detailed and differs from yours' on a few points. (Establishing costs on both sides). I suggest you, sending my report to Prof. Schadee, with also a copy from the salvage report from Theunisse, which report in that time is been checked and approved by the State-Police. In addition, I will send a copy of the calculation of costs and salvage claim from my client, dated September 26, 1979 to the expert. Enclosed you find copy's from these documents. The Adjutant Kamp of the State-Police made the additional "remarks and corrections." I would not like to choose right now for a certain procedure sequence before Prof. Schadee, but I think we can better leave that to the choice of the expert. I have enclosed a concept letter to Prof. H. Schadee. Yours truly, Mr. E. Fleskens.

Aug 25, 1980. The States-lawyer answers with the insurance (FROM HIM!), that his letter has no other purpose than to ask Prof. Schadee if he will accept the assignment as a binding advisor. Now, the trap is been opened...

Pels Rijcken & Droogleever Fortuijn, States lawyer

To Mr. Fleskens. Case: State/Theunisse Date: Aug. 25 1980.

Dear Colleague,

Your letter from 22 this month, I received well. The logical sequence in a binding advice procedure is that first, the expert is been asked if he will accept this assignment. Therefore he needs a very brief explanation about the case, to let the expert know, about which questions is binding advice is been asked for. This brief explanation serves no more or other purposes. If the binding advisor accepts the assignment, then he needs to know the standpoints of both parties. Therefore, he will invite both parties to reveal these standpoints to him, which documents are been named Memory of Demand and Memory of Answer. After that, the binding advisor can decide about the sequence of the procedure. I was hoping that you could agree with my concept for our mutual letter to Prof. Schadee. The case could have be been started then. Now, it will have to wait a while, because I will be absent until the end of the week. Me is not clear what objections you have against my concept, more so, while there is no other meaning in it, then to ask Prof. Schadee, if he will accept this assignment. Your concept letter is a mix of demands and a request for a binding advice. The documents that you are planning to enclose with your concept are pure party-statements and belong in a Memory of Demand. I like to hear from you if, in the light from the above mentioned points, you can share my opinion that, for the simple question to Prof. Schadee, if he will accept this assignment, we can use a letter conform to my concept? Yours truly, S. E. Gratama.

Sep 12, 1980. The States-lawyer sends us a concept letter containing only the question to Prof. Schadee, if he will accept the assignment as binding advisor in the case of the salvage of the Magdalena. Nothing is been mentioned about the agreement with the Secretary.

Sep 16, 1980. My lawyer undersigns this letter and returns the letter to the States lawyer, who sends him directly to Prof. Schadee. Now the trap snapped tight...





Fury-2 arriving at the scene, short after Kamp's message: "She's floating again Geert..."

Chapter 7 **1st ARBITRATION**

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: Mr. Fleskens. September 12, 1980.

Dear Colleague,

Because of your letter dated September 10, 1980, I altered the text from the concept letter to Prof. Schadee. You'll find a copy, enclosed in this letter altered accordingly. I believe that this has dealt with your objections. In my absence, my colleague Mr. Wubs handles this case; please address your answer to him. In case you agree, he will take care of sending the letter to Prof. Schadee. Yours truly, S.E. Gratama

Pels Rijcken en Droogleever Fortuijn, States lawyer

To The honorable Sir, Prof. Mr. H. Schadee, ROTTERDAM, September 17, 1980.

Honorable Sir,

By this letter, Mr. E. Fleskens, at Tilburg and Mr. S.E. Gratama, at The Hague, on behalf of, at one side: G. A. C. Theunisse at Dintelsas, and to the other side: The State of the Netherlands at The Hague; are addressing You with the following. A few days before September 23, 1979, on the "Aardappelbult", around 2 miles west from "The Westhoofd from Goeree", grounded the motor-ship Magdalena. On September 23, 1979, the State-Police patrol-boat RP-9 sailed to the Magdalena. At the end of the morning, the commander of the RP-9 informed Theunisse via the Radio-room, about the Magdalena, about the fact that the Crew had abandoned the ship, and also about a number of particulars of the ship, which Theunisse did ask. Theunisse, who is a salver by occupation, sailed then to the Magdalena with the Furie-2 and the Orca. The Magdalena, who was short before pulled afloat by the RP-9, is after that been brought to Willemstad by RP-9 and Furie-2. This in the fashion that RP-9 was towing and Furie-2 was pumping. Parties now wish to ask you as binding advisor to establish which salvage fee can be claimed by Theunisse, reflecting his work done during the salvage of the Magdalena, and also which costs for legal advice, included for the period before this binding advice, must be reasonably paid to him. And also give advice about the costs for this binding advice. Parties will highly appreciate it if you will accept this assignment and will rule in this between them existing dispute. We imagining us in that case, that Mr. Fleskens will send you a Memory of Demand and Mr. Gratama will send you a Memory of Answer, and that you will direct the further sequence, with the remark that both parties concerned will have the opportunity for pleading their cases before you if necessary. Yours truly, and respectfully,

E. Fleskens, S.E. Gratama.

The letter with the request for binding advice is send to Prof. Schadee, who by return mail is letting us know that he is accepting this task. In the now following procedure is the literally text from the mutual letter, taken conform the concept of the States-lawyer, immediately promoted to the strictly bounded request to the Expert, with exclusion of everything else we agreed up on with the Secretary! This whole exercise with and around the Secretary was not a sign of good will from the State, or a peace effort towards me at all. It was only an emergency exit for the high brass in an attempt to get out of the mess, which they had created themselves. In the Second Camber of Parliament, several Members had smelled that something fishy was going on around this Magdalena thing. They were starting difficult Questions to the Secretary, who, for answering these questions, had to turn to these same jerks, which had lost track a long time ago, and especially after

the report from Internal Affairs was finished! Now, they could have had scrambled the whole charade. They didn't...

Their only way out now was to shove the whole pile of shit to the Secretary and let him clean up their mess. But not just like that! Oh, no! Now they had to start plan B: Damage Control. Before the meeting with the Secretary, I have asked, strongly emphasized, to have a private meeting with the Secretary, without anyone else present. I have asked this by several letters and even by telephone, when his clerk called me for the invitation to set a date and time for the meeting. I even had offered to come alone, without my own lawyer. Remember here that the Secretary, Mr. de Ruiter, himself is a Legal Professor and a Lawyer! Therefore, I do not think he had any reason to be afraid of me, being a simple salver person. I did this with only one intention: to avoid the presence of this annoying jerk of a States-lawyer and these silly members from the Department. I was damned sure that a private meeting with him, and this meeting based on the documents of the case, would have led in a very, very short time to an agreement with him, and my payment! But, it was not possible, they told me, even not allowed, to meet the Secretary alone...Of course not! For damage control, they had to be present at this stupid meeting. They simply had to be there! For hearing and steering. For picking up the pieces afterwards. Only to be able to continue their glorious battle against this pain in the ass Theunisse. Which they did: The minute after I had shake hands with the Secretary and left the Building, they already have had started Plan B, by setting up the trap in the mutual letter to Prof. Schadee, with which trap they had thrown almost everything from the table what the Secretary had agreed up on with me.

Oct 10, 1980. We send the Memory of Demand to the Arbiter. (See App. 11)

Oct 10, 1980. The advisor confirms the receiving of my Memory of Demand and asks to be informed about the value of the Magdalena, "Because surely this factor shall be of great importance." The State is been allowed by the expert to answer on our Memory until November 9 1980, which also happens, on November 6. (See App. 12)

As you can see: The State is still one square one: f. 10,000- is enough for Theunisse. As if, nothing happened in between!

Oct 14, 1980. I inform the advisor that in my opinion the value of the Magdalena after the salvage is between f. 180,000- and f. 200,000-.

Nov 7, 1980. The advisor is asking us if we can decide before December 1, 1980, for pleadings.

Nov 19, 1980. We ask for a plea. (See App. 13)

Nov 21, 1980. The State does the same.

Jan 8, 1981. My lawyer is addressing a complaint to the Secretary of Justice about the content of the Memory of Answer from the State, in which document nothing is left over from the agreement dated August 18, that we have had reached with the Secretary. We never will receive an answer of the Secretary, himself, on this complaint.

Jan 19, 1981. The State writes a letter to Prof. Schadee, containing a describing of the task of the expert, like this is been agreed up on, in the opinion of the State. This is the first "warning" to the expert that he better shall stay in line with the opinions of the State. Enclosed is also a letter from the Department of Justice, signed by the Secretary, as an answer on the complaint of my lawyer from January 8. We know by now that a letter from the Department, undersigned by the Secretary, is in principal NOT the same as an answer or a letter FROM the Secretary. Not at this Department! It comes down to it that the Secretary thinks it "not opportune" to keep on fighting about all kinds of side conditions and differences and to leave the decisions to the expert. But that's just the problem now! The boundaries from the task from Prof. Schadee are now been disputed by the State! But then again, the State is disputing everything in this case.

Jan 22, 1981. Pleadings are been held at Rotterdam. In spite of the fact that we had agreed with the Secretary that no information should be been revealed about the low sales price to the expert in the Memory of Answer, it is immediately done so. On top of that, during the pleadings Mr. Dee from Dees' Supervision is present! Also is present Mr. Bos from the Department. Together they are pushing on about the low value of the ship, just scrap and all that. Not worth more than f. 29,200- etc. etc. This meeting ends like shit because such a big difference in value for the same ship is, understandably, not workable for Prof. Schadee, and he decides on

his turn, to have the ship valuated, again! Moreover, this in spite of the fact that enclosed in the report from Internal-Affairs is the REAL taxation of the ship: From Mr. Voorwinden, expert from Bureau De Beer at Rotterdam! (See page 14,15). I try repeatedly to draw the attention of the expert to the existing of this report. It is in front of him on his desk among the other documents! We all have it! He is ignoring my repeated request! This mess is just what we could have had avoided, with the agreement with the Secretary: To use for this procedure an "imaginary" ship in the same situation as the Magdalena.

Instead, Prof. Schadee appoints Mr. Hoppzak from Expertise & Taxation-bureau Touw at Rotterdam for the next taxation. Also during this meeting, I repeatedly request the State to produce all of the Ships-Papers. Especially those who can possibly reveal the Insured Value of the ship at Lloyds London! The State denies having such papers. This in spite of the fact that Mr. Roth from Radio-Control has stated that he have had seen those papers. (Page 78). Much later, it will show that the ship was indeed insured at Lloyds, for f.1,000,000-. Only the RCA transmitter had a value of a quarter of a million, plus at least another quarter of a million for all of the other stuff in the Studios' of the ship, like lots of sound equipment, hundreds of records, tapes, etc. Although the transmitter was smashed before the salvage, all the rest was still onboard during and short after the salvage and therefore being "saved value."

Feb 16, 1981. Prof. Schadee asks information about insurances from the ships that took part in the salvage.

Feb 19, 1981. Mr. Hoppzak receives from Prof. Schadee Page 1 and the first seven lines from the report from Mr. Voorwinden, from Bureau De Beer at Rotterdam. With this information, it is very simple to ask on the market about the exact value of the scrap-metals from the ship. THIS IS NOT DONE, it will not show in the report from Hoppzak. I also ask myself why Mr. Hoppzak only receives a small part from this one and only real taxation? Was it maybe to good to be true, or what? Too embarrassing for the State probably!

March 27, 1981. I serve a complaint at the Attorney General at Breda, about various crimes, committed by various Civil Servants in this case, only to speed up things a bit.

Apr 17, 1981. Prof. Schadee receives the requested insurance information about my little fleet. Meanwhile, there is another long pause in the case, now Mr. Hoppzak is busy with his task, conducting another valuation report about the Magdalena. After a while, we receive a letter from Prof. Schadee, which letter, at sub 1, is leaving big question marks with me...

ROTTERDAM, April 22, 1981.

To Mr. E. Fleskens, TILBURG.

To Mr. S.E. Gratama, The Hague.

Case: Theunisse / State of the Netherlands.

Dear Sirs,

1. The report I received from Mr. Hoppzak put up a few questions for me, which I will discuss with him very soon. After that, you will both receive a copy from this report, after which I will give you a very short time for your reaction.
 2. I request Mr. Gratama to let me know before May 2, '81, if and which remarks he wants to place about the letter from Mr. Fleskens dated April 17, '81.
 3. I request Mr. Fleskens to inform me about the Insured value of the Sjacor, and to prove me that the Furie-2 did a part of the job, not insured. I cannot see this in the Insurance Policy. Which clause was valid?
 4. Until now is not mentioned that the ships "Manus" and "Vanalles" were used for the salvage. I assume that this was indeed not the case?
 5. According to your letter, September 17, '80, I must, and therefore I only may, advise about "which costs for legal advice, under which the period before this procedure, reasonably must be paid to Theunisse."
 - a. These costs can only be been established at the end of this procedure, but I request Mr. Fleskens to let me already know now which amount he is planning to bill his client for his fee plus his expenses. To exclude any chance of other new discussions about this, and only for that reason, I request Mr. Fleskens to have his declaration approved by his Dean.
 - b. Furthermore, I request Mr. Fleskens to inform me about the costs and time spends, and the thereby caused financial damage, on the side of Theunisse, insofar connected with the legal assistance. Incase I come to a for Theunisse favorable advice, we can then discuss these matters.
 - 6.a. After I have received your information mentioned above, I shall bring out my advice about the possible liability for a salvage reward and about the possible amount of that reward.
 - 6.b. After that, we can have the discussion as stated in sub 5b.
- Yours truly, H. Schadee.

Apr 23, 1981. Mr. Hoppzak is serving his taxation report to Prof. Schadee. He values the Magdalena on f. 65,000- with the remark that in his opinion, after the salvage, many firms could have been found to make an offer on the ship. (See App. 14)

Apr 24, 1981. We receive a copy from the report from Hoppzak with the question from Prof. Schadee, if we wish to comment on this report. Indeed, I like to do just that!

May 7, 1981. We meet again at a conference room near the office of Prof. Schadee to discuss the report from Mr. Hoppzak. It's going to be a very short meeting, I tell you... I have namely just only one question to ask Mr. Hoppzak which is: "Oyo man. How are you doing today? By the way, why did you put a figure at the bottom of your paper, at least one hundred thousand below the market value?" "That's what I like to know man. Can you tell me that?" Then there is a lot of noise roaring through the room for a while. Then I ask why there is not made use, or better use, of the whole of the report from De Beer, to establish the value of the ship. For this was a real taxation report, about a real ship, instead of a bunch of papers. With a real expert, walking and crawling all over the ship, and making many notes, scribbling away for a whole day! Both of the experts, Prof Schadee and Mr. Hoppzak started to look a little stupid. Who they are not in normal life, and Prof. Schadee is closing the meeting rapidly...

Outside the office, Mr. Hoppzak - a nice person in our every day life - is approaching me, and starts to whisper very demandingly, a little angry even in my ear: "Keep quiet, you dipstick, Schadee will give you your pound of flesh anyway!" "?. Obviously, Mr. Schadee thought that the Government was enough embarrassed by now, and he did not like it to make things any worse. Much later, much too late in fact, it will show that it is impossible to serve properly both sides in the same battle at the same time. Not even for a Professor... Much later, it will show that Professor Schadee is serving the Government on an entirely other field. He is writing for many years - long before the salvage of the Magdalena and still busy with it - on the new Law-book, Number 8, About Transport, from the Law of Commerce. The Department of Justice for Pete's sake gave this huge task to him! It is, of course a several hundreds of thousands of guilders job... So much for an "independent" binding advisor! Much later, I once came near his private office in a huge

building at Rotterdam. On his office door, below his Name is a shield attached, it says:

-DEPARTMENT of JUSTICE-

Justice? Which justice? What's that, Justice? Boy! Never seen that kinda stuff here!

Mrs. Van den Heuvel & Fleskens, Lawyers & Procurers

To: Prof. Mr. Schadee.

Honorable Sir,

Following on the meeting of Thursday, May 7, 1981, I like to bring the following matters to your attention:

1. The value of the ship based on the material produced after demolishing is much higher

than the amount of f. 65,000-, now established by Mr. Hoppzak, for which is taken the situation that the ship as a whole would have been sold after salvage.

Salver had his right of retention on the ship, as well according the Lloyds Open Form rules, as also according the rules of the Law of Commerce. Just before the salvage was finished completely, the Police ordered Theunisse to leave the ship. By doing so, the government was misusing her powers by Police force in her civil rights duties, and in a business relation with a civilian, the salver. Because the State had sold the ship immediately, and had it transported, and had it wrecked, everything demanded by written order: The Bill of Sale; and after that had made the impression for the time being, that she had the intention to pay the salver, she invited the salver to produce his invoice; it was not longer possible or practical for the salver to place the ship under custody. Doing so, the government has frustrated the carrying out of the rights of the salver. The salver could have had his rights protected by means of retention, or with the custody, and if necessary, via a Court Order could he have had his salvage reward out of a normal sale, instead of an executorial sale. Because the Court would have granted him this possibility if he could prove that, the sales-price would have been higher in that case. This the more so, now the salver is also active in the trade in ships and in repairs.

2. When the salver was ordered to leave the ship, the important safety work was all done. The ship had could have stayed there for an infinite time. The salver has made an estimation of the damage on the ship and about the costs for repairs and replacing of missing and damaged goods and equipment. These total costs are

limited. Assumable is that because the State ordered him to leave, and it was therefore not possible to do the necessary conserving and protection works in the engine-room and other equipment, additional damage is done. This damage is lowering the value, and is caused by the State. In no way is this a fault of the salver, but now he gets the bill! Because a lower ships value means a lower salvage reward. Based on the above mentioned I think it reasonable and fully justified to see this value of the ship of f. 65,000-, not as the strict upper limit for the reward, or at least as equal to it. I think it very unjustfully, now the "evidence" of the value, the whole ship, is vanished by faults of the State; the salver has to prove the value afterwards. The whole risk of this valuation and taxation comes now on the plate of the salver. With great interest, I am awaiting your replay.
Yours truly: Mr. E. Fleskens. Copy of this letter directly to Mr. Gratama.



Just alongside and started with the pumps like an idiot.

Chapter 8

PRELIMINARY BINDING ADVICE

Case: SALVAGE COMPANY THEUNISSE, seated and living at Dintelsas, municipal Dinteloord; demander; Counselor: Mr. E. Fleskens;

Versus: THE STATE OF THE NETHERLANDS, seated at The Hague, defender; Counselor: Mr. S.E. Gratama;

To: Mr. Fleskens, To: Mr. S.E. Gratama. May 27, 1981.

Dear Sirs,

Dated on September 17, 1980, you wrote me:

“By this letter: Mr. E. Fleskens, at Tilburg and Mr. S.E. Gratama, at The Hague, on behalf of, at one side: G. A. C. Theunisse at Dintelsas, and to the other side: The State of the Netherlands at The Hague. Are addressing you with the following: A few days before September 23, 1979, is on the “Aardappelbult” around 2 miles west from “The Westhoofd from Goeree” grounded the motor-ship Magdalena. On September 23, 1979, the State-Police patrol-boat RP-9 sailed to the Magdalena. At the end of the morning, the commander of the RP-9, via the Radio-room, informed Theunisse about the Magdalena, about the fact that the Crew had abandoned the ship, and also about a number of particulars of the ship, which did Theunisse ask. Theunisse, who is a salver by occupation, then sailed to the Magdalena with the Furie-2 and the Orca. The Magdalena, who was short before pulled afloat by the RP-9, is after that brought to Willemstad, by RP-9 and Furie-2. This in the fashion that RP-9 was towing and Furie-2 was pumping. Parties now like to ask you as binding advisor what Theunisse, considering his work done during the salvage of the Magdalena, can claim as salvage fee. In addition, which Costs for legal advice, included the period before this binding advice, shall reasonably be paid to him, and to give advice about the costs for this binding advice. Parties will highly appreciate it if you will accept this assignment and will rule in this between them existing dispute. We imagining us in that case, that Mr. Fleskens will send you a Memory of Demand and Mr. Gratama will send you a Memory of Answer, and that the further sequence will be directed by you, with the remark that both parties will have the opportunity for pleading before you in their cases, if found necessary.”

By letter, addressed to you both, on September 23, 1980, I confirmed you as being willing to act as binding adviser in the above-mentioned case. By as here inserted to mention, Memory of Demand, dated October 9, 1979, demander, hereafter named Theunisse, did conclude on hereafter mentioned grounds, that the salvage

claim as served by him of f. 80,000- ex. vat, is reasonable and justified and he is rightfully claiming this for costs and salvage reward. By Memory of Demand, he added also to his claim costs and interest parts en asked to bring the costs of this procedure to the account of the State of the Netherlands.

By letter, dated October 31, 1980, defender - hereafter also named as the State - sent me his not dated, and here inserted to mention, Memory of answer. In which he concluded that I would advise to the amount for a reward of less than f. 15,000-, to be paid to Theunisse, also to advise that there are no grounds to pay Theunisse other costs and to bring the costs of this procedure to the account from Theunisse. Theunisse and the State represented by counselors on January 22, 1981, did plea their interests before me.

On February 16, 1981, I requested Ing. H. J. Hoppzak at Rotterdam, to advise me about the value of the Magdalena after the salvage was ended, which date, -as if I have explained hereafter-, I have set on September 25, 1979. With this letter and with letters on February 19, February 25 and March 5, 1981, I have sent information handed over to me, to Ing. Hoppzak. From all these letters you received copies. On April 23, 1981, Ing. Hoppzak wrote me as follows:

With reference to the letters, addressed to undersigned, Feb. 16, Feb 19, Feb. 25 and March 5, 1981, I can inform you as follows: That after studying the dossier and seen the Lloyd's Register of Shipping, I have gathered the following information: (See App. 14)

On May 7, 1981, you had in my presence the opportunity to ask specific questions to Ing. Hoppzak, which he did answer. Letters addressed to me from Mr. Fleskens dated May 13 and May 18, 1981, were answered by Mr. Gratama on May 20, 1981, after which Mr. Fleskens did send me a Telex dated May 25. You agreed with me than to bring out my advise if –and incase confirmative- which reward has to paid by the State to Theunisse. You produced a very large number of documents before me. Which all of them I mention as being inserted here. In general, I mark here – and at the meeting on May 7, 1981, you agreed with me - that regarding the circumstances about the activities of Theunisse is in fact no disagreement between you. I therefore not repeat hereafter every time that the statements from Theunisse and others, on which I will ground my advice, “were not or not motivated enough contradicted.”

The statements from Theunisse made clear that him is told that in the morning of September 23, 1979, the motor-ship Magdalena was grounded on the Aardappelbult in front of Goeree. In addition, that between parties is established, by statements from Johannes Kamp, the Radio-Room at Dordrecht, Pieters, Van der

Sluis, Van den Berg, Welbie, and Heimensem, that an agreement is developed, which is named salvage between parties. Irrelevant is if this agreement must be qualified as “an order”.

From the statements from Johannes Kamp, on December 21, 1979 before a Judge at the Districts-Court at The Hague, and confirmed by the statements of the before mentioned, became clear, that he at that moment acting as the Captain of the RP-9, said that Theunisse was coming on a “No Cure-No Pay” basis. Theunisse did confirm that he came on this basis, and stated as his viewpoint, that this means that the agreement is ruled by “Lloyd’s Standard Form of Salvage Agreement “No Cure-No Pay””, the so called “Lloyd’s Open Form”. This viewpoint fails. The principle “no payment without good result” is of course the basis of Lloyd’s Open Form, but also of almost every other legal and treaty-rights rules about this theme. Therefore, not the expression only from this principle is enough to say, that parties wish to have their agreement placed under the rules of Lloyds Open Form. Also the fact that parties brought there case – like is provided for in this L.O.F. agreement - not for arbitration at London, which point to that they themselves did not found to the bound to the rules of the Lloyds Open Form.

The Dutch Law is ruling the relation from parties: Parties are Dutch, the salvage is ended on Dutch Territory, and parties invited a Dutch civilian to give a binding advice. Art. 552 from the Law of Commerce show that salvage reward is due for assistance, given with good result, to a ship in danger. Between parties is established that the Magdalena was in danger –about the extent of danger, I may refer to in the later following- also that- like also referred to in the later following- the assistance from Theunisse did had good result, from which follows that the State has to pay to Theunisse a salvage reward. This reward has to be reasonably established, incase of disagreement, according Art. 553 from the Law of Commerce. In this establishing, I shall take in consideration, among others, the following factors:

1. The result of the assistance.
2. The time spends for the assistance.
3. The usefulness of the acts from Theunisse.
4. Dangers for the ship in distress
5. Dangers for the provider of the assistance.
6. Dangers for the assisting ship(s)
7. Expenses and damages made and/or suffered by the assistant.
8. Risks taken by the assistant.

9. Value of the salvers' used ship(s) and equipment.
10. Special abilities for assistance from the assisting ship(s).
11. Value of the saved object.

1. From the statements of Theunisse became clear that when he, on September 25, around 14.00 to 15.00, stopped his assistance, the ship was not damaged more then when he started his assistance and that a possible still existing leaking, if not stopped entirely, was such that this would not lead to the sinking of the ship. Therefore, the assistance was a complete success.

2. From the statements from Theunisse became clear that he around 12.15 to 13.00, on September 23, 1979, has sailed from Dintelsas with Furie-2 and from Den Bommel with Orca for assistance. His last acts for assistance he did at Willemstad, for which he possibly not received an order, but which were also not rejected, and were ended at 14.00 to 15.00 on September 25, 1979. Therefore the total time spend was around 50 hours.

3. During this period, Theunisse and his men did a very useful job that took much strain.

From the statements from Theunisse, Van der Sluis, Van den Berg, and Pieter C. Kamp became clear, that when Theunisse arrived around 17.15, at the Magdalena, this ship, in who's Hold was at least 1 meter water and in the engine-room 2.5 meters, this ship was floating and had a list to Portside from at least 35 degrees. Short time before, Van den Berg and P. Kamp had noticed that a vibration went thru the ship, after which the leaking got worse and also the list. The reason of this vibration was not clear, but it was obvious that something onboard was "very wrong". If the pulling off from the sandbank of the Magdalena, before Theunisse arrived, was a wrong maneuver, is irrelevant for establishing the salvage reward. Important is the amount of danger the ship was in. Who caused the danger is not important. Van den Berg and P. Kamp, both of them members of the State-Police, were onboard of the Magdalena, but the pump they had put to work, broke down. In spite of the list, Furie-2 managed to come alongside and to bring over a hose, which with the help from Van den Berg and P. Kamp was placed in the Hold. With large truck tires, they had to protect Furie-2 from banging into the Magdalena. Some time later, it was possible to take a pump from Orca and to place this pump also onboard from the Magdalena. One of the men from Theunisse went into the Hold of the Magdalena when the pump hose got blocked with rubble. Because of that, the water level went up again, the list worsened and it was necessary for this man to stay in the Hold, in the water and dirt to keep the

hose free. This was a great risk, considering that the ship was rolling and the water in the Hold was moving about violently, and took great courage. During this period, Usefulness, Effort and Craftsmanship from Theunisse and his Crew were great, and did prevent surely the sinking from the Magdalena, and therefore with almost certainty a total loss of this ship. After the list of the Magdalena was diminished by pumping, this ship was taken in tow later that evening by the RP-9, for which the Furie-2 and Orca were giving driving power and pump aid, and brought to Stellendam. The same day the ship was towed to Willemstad by Furie-2, assisted by the RP-9. Around 14.00, the ship was moored at Willemstad.

On September 25, 1979, Theunisse was working on the ship to stop the leaks in the Magdalena. At 14.00 to 15.00, he stopped this work. From the time on the ship was towed; the work from Furie-2 and Orca was not of a very special nature. Craftsmanship was needed for the steering and pumping, but was not special. In addition, the towing and bringing into Willemstad did not caused big problems. Taken into account has to be however that Theunisse and his Crew, at the arrival in Willemstad were busy for more than 24 ours without sleep or rest. The works from Theunisse on September 25, started at 09.00 and ended at 15.00, did also not require more then normal Craftsmanship, but bared very good result. In addition, the Crew from RP-9 did their share in the assistance and made the task for Theunisse easier. Although the State cannot not claim a reward for this, fact is that also this factor is to be taken in account in establishing a salvage reward for Theunisse.

4. The dangers from which the Magdalena was saved were very large. From the statements from Theunisse and others became clear that when Furie-2 and Orca arrived at the ship, it had a list from about 30 degrees, which was worsening and would have led to capsizing and sinking of the ship. This would almost surely have led to a total loss of the ship. Maybe it would have had been possible to save some goods from the ship, but the value from which, also in view of the high costs of such operations, would have had been not much.

5. The dangers for the Crew onboard Furie-2 was in the position close to the grounding place and short after, not at all imaginary. The Magdalena had a heavy list and the Furie-2, to bring over a pump hose, had to go alongside, with the high risk in it that, the Magdalena capsizing, could have had the much smaller Furie-2, heavily damaged, or perhaps totally foundered. The position of Theunisse therefore was at this period very dangerous. In a much-emphasized manner is this true for the crewmember that had to go into the Hold of the listing and rolling ship, up to over his waist in the dirty water, to keep the hose free from blocking. After the

towing was commenced, this danger was no longer there, nor for Furie-2 or the Orca; the danger of capsizing was gone.

6. Regarding the danger for the ships, Furie-2 and Orca, I refer to which I have said about the Crew. The risk for serious or fatal damage did not last long, only during the time that the Magdalena could capsize, and only the courage and craftsmanship from Theunisse and his Crew could have had prevent serious damage or loss. After the towing had started, the risks for Furie-2 and Orca were almost over.

7. The expenses from Theunisse are difficult to calculate accurately. Based on my information I estimate the costs on f. 19,000-. No damage on Furie-2 is reported to me, nor that Theunisse have had to pay any damage on Orca.

8. Important is that Furie-2 –so I have concluded from the Insurance documents- was operating in an area not covered in the Insurance Policy, which means that Theunisse took the full risk for this ship. This risk was, considering the job done and the areas of water where the job had to be done, where many ships accidents occur, very substantial.

Theunisse did not own the Orca, but it is assumable that in case of damage or loss of this ship, for which the insured value was f. 50,000-, and was also outside the “insured area”, this also had come to the account of Theunisse.

9. The Furie-2 was insured for f. 500,000-, The Sjacor (not used for the salvage) for f. 247,500-, and the also not used Manus for f. 1,200,000-.

These three ships were carrying a bank-loan of f. 650,000-.

10. Between parties is agreed that Furie-2 as also Orca were special equipped for salvage.

11. I confirm myself - and I do so on grounds provided for by him - with the opinion of Ing. Hoppzak, that the value of the Magdalena after the salvage was f. 65,000-. About the value of the saved object, a great difference of opinion has arisen between you. which was almost entirely caused by the fact that the State sold the ship in a very rapidly manner. And she did so for a price, which was not only very low in the light of the now by me established value, but also in the light of the fact that the ship immediately was sold a second time for twice the amount. Theunisse has stated that the value of the Magdalena would have been much higher if he has had the possibility to have the ship taken in custody. Regarding the Article's 318c and 318o from the Law of Commerce, he had that opportunity, because the journey of the Magdalena after the end of the salvage must not be considered as a

journey in the sense of Art. 319d, from the Law of Commerce. About the factor saved value I mark here that this value in establishing a reward, not shall have a deciding role. However, because it is a factor, independent of the subjective view of a judge or arbiter and can be given in a figure, it is easily emphasized in a verdict, more than it did influence the decision.

Rightfully however is stated in the Brussels Treaty-1910 about assistance in Art. 8 that

“la valeur des choses sauvées” is important only in the second place. Difference of opinion about this value does not have to block, -as stated by the State- a discussion about a reward. But because the reward cannot be higher then this value, is a discussion like this, in which more then the “supposed” value was asked, not possible to end. But the discussion can however still lead to more clarity and possible to a settlement. In the establishing of a reward must come first the reason why a reward is granted, being the drive to go for assistance. The assistance – especially on water- becomes more and more important and the drive to go, must be sufficient enough for well-equipped companies -and the Company from Theunisse is well equipped - to get going and to make it profitable for a Company in which able, courageous and skilled people can find and keep a job.

This can be large Company’s, but small and locally very good informed Company’s are also of the greatest importance for all shipping. Also these small Company’s are running the great risks which are involved in the “No Cure-No Pay” principle, risks who are for them even greater than for larger and richer Company’s, and which risks have to be compensated with good rewards, in these cases were their special local knowledge, their courage, their skills and endurance did lead to good results. Regarding the value of the ship Magdalena, I mark here that I would not have had the State advised to pay a higher reward if this value, like Theunisse stated on May 7 1981, was f.165,000- or more.

Considering all this, I advise the State of the Netherlands to pay Theunisse a reward of f. 50,000-, (fifty thousand guilders) plus the Legal interest over that amount from October 9, 1979, being the date the State was summoned, until the day of payment.

About the other points for which my advice was asked, I request party Theunisse now with the highest urgency to provide me with the information, which I asked for in my letter on April 22, 1981, and any other information he thinks appropriate.

Yours truly, H. Schadee



Like an Eagle watching the list of this baby. Is it going to be less or not?

Chapter 9 ARBITRATION PART 2

Well, three cheers for that. One could say I guess it was a victory. However, it was not. This procedure got started on the wrong foot to begin with, thanks to the State. By messing up my detailed agreement with the Secretary, and by lying about the beforehand existing business relation between Prof. Schadee and the State, this whole procedure, the appointment of Schadee, and his advice was destroyed and not valid anymore. Soon it would show what the results of that were. Anyway, for a moment there were these optimistic headlines in the Newspapers. About the small-time salver, who was beating the shit out off the Dutch Government? However, it would not last for long... Meanwhile, look at the next letter this sorry example of a lawyer, the States lawyer, wrote.

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: Mr. Fleskens. June 5, 1981.

Dear Colleague,

Your letter: dated June 4, 1981, I received well. Your estimation about the salvage reward turned out not bad. As soon as I had received the Advice from Prof. Schadee I have transferred this to the Department of Justice, with the request to able me to provide your client with what is rightfully his. Yours truly, S. E. Gratama
This jerk really thought this all thing was just a game!

June 6, 1981. I send the preliminary advice from Prof. Schadee to the First Camber of Parliament with the request, if they will see to it that now the second and third part of the Binding Advise procedure, about my additional costs and damage, shall will be handled, uninterrupted by the States lawyer. This with the very simple idea in my mind that I am a Civilian of this Dutch State and I have the right, no matter what kind of procedures I am in to, address any part of Government, at any time, about any subject, as I thinks appropriate. This because my civilian rights, in my opinion, are superior to any other rule in any other possible procedure I'm in together with the State.

Civil Rights for a person are given to him with birth, in than an ideal world, long before anyone kind of procedure or conflict can possibly arise. If only it could stay that way! However, we grow up and live in a not ideal world. That is why literally thousands of Laws and Rules are developed, designed, and written. This happened to keep and protect our civil rights, and to keep us on the straight and narrow path. In addition, a Government, chosen by us to guard and protect these, our rights. If now of all the Government is violating or allows her Civil Servants to violate our civil rights and damage is done, the Government must be the first to take the damage away, and maybe, just maybe, to say "so sorry"...Like I said, but it's just not an ideal world...

June 11, 1981. Prof. Schadee sends us a small list with dates on which he will be absent and asks me to make a list of my personal costs and damage.

June 12, 1981. My lawyer writes to Prof. Schadee that he is busy with his specified declaration until now, and that he will have it checked and approved by the Dean of the District of Breda. He is asking Prof. Schadee for a few more days' time.

June 17, 1981. The declaration of my lawyer is ready and amounts to f. 121,642.80.

June 24, 1981. The States lawyer is letting us know that I will receive the amount of f. 59,877.39, according the following overview:

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: Mr. Fleskens. Case: State / Theunisse

Dear Colleague,

Now I can transfer to you the sum of f. 59,877.39, containing f. 50,000- Salvage reward, and f. 9,877.39 interests. This interest calculated until coming July 1, 1981. This interest is a little lower then you had calculated. This is because you took a percentage of 12 % as from January 1980. While this percentage of 12% became valid only from April 1, 1980. To serve you, I enclose the calculations from the Department in this letter.

Yours truly, S. E. Gratama.

From October 9, 1979 to April 1, 1980, the interest percentage was according Art. 1286- B.W. 10 %. From then until now it is 12 %. The interest over f. 50,000. is calculated as follows:

- | | |
|------|--|
| I. | October 9 to December 31, '79: 84 days ad 10%.....f. 1,150.6849. |
| II. | January 1 to March 31, 1980: 91 days ad 10 %..... f. 1, 243, 1693 |
| III. | April 1 to December 31, 1980: 275 days ad 12 %..... f. 4, 508, 19 |
| IV. | January 1 to June 30, 1981: 181 day's ad 12 %..... f. 2, 975, 5424 |

Total.....f. 9, 877, 39

The total, to be paid to Theunisse is f. 59,877.39.

Note to Art. 1266 B.W: by Queen's decision on February 27, 1980, Stb. 54, the word "Ten" is replaced by the word "Twelve". (Valid and carrying on April 1, 1980).

Yes, if it comes to calculating in infinite decimals and pencil pushing over their piles of paper, these guys are unbeatable!

July 1, 1981. The Attorney General at Breda is telling me that he in my complaint about criminal acts from a few civil servants in the case, about one of them, living in his District, is not willing to put criminal charges against this one, but he is

offering me a personal meeting for answering possible questions. I accept the offer.

July 10, 1981. I have this meeting with the Attorney General, Mr. v. Leeuwen, who constantly is trying to convince me to let the past rest. "Mr. Theunisse, you are a salver, and that is what you should be, and not seeking revenge." I answer him that being, and especially staying, a salver is just that which I now have to fight for.

Sep 14, 1981. My lawyer asks Prof. Schadee to confirm about the correctness of the two points, left to be advised over, which are: Costs of legal counseling, procedure costs etc. Personal costs from Theunisse caused by the delayed and difficult proceedings in the matter.

Sep 16, 1981. The State Lawyer is protesting immediately and is referring to the mutual letter to the advisor, dated September 12 1980, in which the very brief and simple question to the advisor was written, "explicitly" he persuaded us then, "to ask him if he will act as advisor".

Sep 18, 1981. The advisor asks us to send him the declaration from my lawyer and an estimation of my own costs, and to send copies also to the State.

Sep 30, 1981, this is done. (See App. 15)

Oct 7, 1981. I receive a letter from the First Chamber, answering my letter from June 6, 1981, containing, that since in the case a binding advisor is appointed, for them there are no reasons to intervene, and they are turning to every-day routine. One of the undersigned is the future Secretary of Justice...

Oct 13, 1981. The States lawyer is telling us that he thinks about the declaration of my lawyer as outrageous and the estimation of my personal costs is much too high and that no grounds in Dutch Law can be found for it. (See App. 16)
Fighting the Dutch State is something like running uphill, knee-deep in mud, with a ton of bricks on ones back and dragging a very angry donkey with you, backwards!

Oct 15, 1981. Prof. Schadee asks us for more information before Nov. 1, 1981, after which he gives the State time until Nov. 15, to react. In addition, he says he will as soon as possible set a date after Nov. 15, for a meeting for pleadings.

ROTTERDAM, October 15, 1981.

To: Mr. E. Fleskens, TILBURG.

To: Mr. S.E. Gratama, The Hague.

Case: Theunisse versus the State of the Netherlands.

Dear Sirs,

Now about the last points there are also such different opinions between you, I wish to give Mr. Fleskens the opportunity to answer on the letter of Mr. Gratama from October 13, 1981. I entirely fail to see why this case could reach this size, (see especially Art. 318o from the Law of Commerce). I request Mr. Fleskens to answer before Nov. 1, '81, were after I wish to receive the answer of Mr. Gratama before Nov. 15, '81. I request both of you to convey me your possible dates for a comparison of parties, as soon as possible after Nov. 15, '81, to receive additional information and to see –if possible at all- if we can reach a settlement. I would appreciate it if someone can represent the State, who shall be authorized to make binding decisions. If this should be the Secretary, I am reverentiae causa willing to have the meeting held at the Department. Yours truly, H. Schadee

Oct 16, 1981. Mr. Kombrink, financial expert of a Commission of the Second Chamber is revealing to the Newspaper “The Free People” that the costs in this case for the Dutch State, spend on investigations and the States lawyer (!) until now are amounting to f.1,100,000-.

Oct 19-21, 1981. My lawyer answers the latest questions from Prof. Schadee. He reports that the costs for legal counseling are until now f.121, 642.80. My personal business damages are now estimated to the amount of f.180, 000-.

Nov 9, 1981. The State answers: “Not true, not possible, we reject everything!”



Finally out of the lock at Stellendam with our baby, and on route to Willemstad.

Chapter 10 THE COMPARISON

Dec 10, 1981. The message comes in that the meeting will be held at the office of the State lawyer, Mr. E. Droogleever Fortuijn, at The Hague. We see another upgrading of the case here: Now the “real” States lawyer himself is attending the case. Not any longer one of the “lower” Associates. It must be very important for them to defend with everything they have, because they are using the “Big Cannon” now!

Dec 23, 1981. We are together again at The Hague. Present are:

Prof. Mr. H. Schadee, Arbiter.

Mr. J. Grosheide, Director-General Police-Division.

Dhr. P. Neleman, Chef de cabinet from the Department.

Mr. Droogleever-Fortuijn, States lawyer.

My lawyer, Mr. Fleskens, and the undersigned.

The arbiter, Prof. Schadee opens the meeting with a speech, saying that he thinks this a very difficult and sad case in which the State did everything possible wrong. That he sees fit to grant me a very generous damage payment, etc, etc. BUT that to his great regret, it will be not possible to do exactly that, because in that case the State will call without a doubt for destroying of his advice, because he would act in that case beyond his assignment, etc, etc. I answer with reminding him about my agreement with the Secretary in which there was plenty of room for granting me payment for my personal damage. The arbiter, Prof. Schadee, Author of the new Law book of Commerce of Transport, and very familiar with the Department of Justice, is answering: "Yes, yes, Mr. Theunisse, it is very unfortunate and a great pity that you did not have had this meeting with the Secretary that time, immediately recorded and signed."

The arbiter asks the State to make an offer?! The State offers f.12,500- for all costs together. The meeting starts to be noisy, after I tell him what they can do with this offer. The State leaves the room for a while and turning back makes an offer of f. 25,000-. After my answer, the arbiter is quickly suspending the meeting.

After lunch, separately, we are approaching the room again, when Prof. Schadee is taking my arm and says, "Come on Theunisse, back to the Slaughter-House". The State opens with confirming their last offer and declares that this is their limit, because they are not authorized to go any further. The arbiter did indeed ask for somebody who IS indeed authorized! For this f. 25,000-, I will also have to sign a document in which I have to promise to quit all actions! The arbiter asks emotional (?) if they can go to f. 40,000- only for the legal expenses and for me with the possibility, to go to the Department, to plea for my own costs and damage. The State answers that they cannot decide on this at the meeting, were after the meeting is closed with the promise of the State to give a decision soon on the f. 40,000- offer.

Dec 28, 1981. The State answers that they do not agree with the possibility of me pleading at the Department for my personal costs and damage. That they are only willing, in order to close the case, to pay me f. 40,000- for ALL my expenses everything imaginary included and under the condition that I have to stop all actions, including contacts with the Parliament and the Press! This proposal is valid until Jan. 11, 1982, after then it is expired. (See App. 17). Boy, oh boy! Do they make mistakes, or what?

Dec 29, 1981. I file a complaint about this letter at the office of the National Ombudsman, at The Hague, which brand-new Institute will come in business as from Jan. 1 1982.

Jan 5, 1982. The Union of Press-Reporters is filing a complaint to the Commission for Justice-Affairs in the Second Chamber about the "Press condition" in the letter dated December 28 '81. The VVD Fraction of the Second Chamber is addressing written questions to the Secretary of Justice about another condition in the same letter. Which condition is trying to limit the rights of a civilian to have contact with Members of Parliament about matters of his concern? In addition, the right of Members of Parliament to have contact with civilians every time they see fit. Moreover, to limit the right of the Parliament to interfere in this specific case every time they find it necessary. Yes! They had this one coming. They asked for it!

Jan 15, 1982. The National Ombudsman confirms to have received my complaint dated Dec. 29 1981.

Jan 28, 1982. We write the arbiter that I do not accept the last offer from the State, and now, are expecting his binding advice.

Mrs. Van den Heuvel & Fleskens, Lawyers, and Procurers

To The Honorable Sir, Prof. H Schadee, ROTTERDAM

TILBURG: January 28, 1982

Theunisse/State

Honorable Sir,

Answering your letter from January 26, 1982, I have to tell you that the latest offer in name of the State to my client is totally unacceptable. For the time being, I see no other possibility than to continue the procedure, for which I would appreciate a presenting of further conclusions. (This connected with my findings after I have asked for advice), although, maybe it is also possible that a continuation of the comparison could be desirable. Copy of this letter I have sent to Mr. E. Droog-leever Fortuijn.

Your's truly, E. Fleskens. (See App. 18)

Jan 30, 1982. The Government is under siege now because of the silly "Press and Parliament Condition" in the letter from December 28, '81. Reporters are all over the place and are angry as hell, asking the Government if they are completely

gone out of their minds now. Freedom of speech, freedom of opinion and all that. I like it, but it doesn't do much good though. Because they are so thickheaded, it is not possible to penetrate in their sorry excuses for a brain, or to attack them beyond their infinite arrogance.

March 3, 1982. Following on these Press releases, the Second Chamber is asking additional questions to the Secretary of Justice.

March 26, 1982. The State answers: denying, fighting, refusing, etc. etc. (See App. 19). After this sorry piece of literature, I feel the sudden urge to remind you all, that the State has spilled until now an amount of well over a MILLION Guilders, to prevent paying a bill of f. 80,000-! The biggest share of this money goes in the deep pockets of the honorable States lawyer. Speaking here about irresponsible behavior towards ones client! Like I said before: Who the hell cares?

In the meantime, after a taste of the atmosphere during the last meeting, the Comparison before Prof. Schadee, I had lost any confidence in the outcome of this procedure. Reason why I already turned myself to a new institute, The National Ombudsman. First with the complaint about the stupid "Press & Parliament" condition, but soon after, followed with the rest of the shit, I was in. I did this very simple by sending him, to begin with, a bunch of Magazines and Newspapers in which the whole story was followed, and fairly good covered. This with a short letter enclosed, saying: "This is my complaint". "Please see to it." If a great miracle would happen, incase the binding advice would turn out right for me after all, I could always let him know about that also ...It did not...

March 29, 1982. Again, Prof. Schadee is asking for more information about costs and damage.

March 31, 1982. In the following letter, the States regrets the wretched condition in the letter from December 28, 1981.

Department of Justice

To The Commission for Justice Affairs from the Second Chamber of Parliament.

Your letter: March 3, 1982. Our ref. Nr. 350/382

Subject: State/Theunisse (Mi Amigo) Date: March 31, 1982

Following your request for information about the content of an article in "The Free People" from March 1, 1982, I answer you as follows: The salvage of the MV. Magdalena, (the illegal radio station Mi-Amigo), that was grounded a few days before September 23, 1979, has caused a dispute between G. A. C. Theunisse at Dintelsas and the State about the due payment to Theunisse for salvage reward. After it became clear that no settlement was possible, is agreed up on asking a binding advice. The assignment for this was written in a mutual letter dated September 17, 1980, together from the States lawyer and Mr. Fleskens, the counselor from Theunisse, to Prof. Schadee at Rotterdam. In which letter they asked him to advise about, "which salvage reward had to be paid to Theunisse, and also which costs for legal assistance, under which the legal costs from the beginning of the case, had to be paid to him." In a preliminary advice, dated May 27, 1981, Prof. Schadee advised the State to pay to Theunisse the amount of f. 50,000- plus the legal interest from October 9, 1979 on. This amount was paid to Theunisse. After Theunisse had provided Prof. Schadee with information about the other points of the agreement for which the advice from Prof. Schadee was asked for, a Comparison is held on December 23, 1982. During this meeting Prof. Schadee has tried if there was the possibility of a settlement to end the dispute between parties, which dispute now was also about a, not included in his assignment, amount of money for the pretended personal damage from Theunisse. From this effort to reach a settlement came this letter from the States lawyer, dated December 23, 1982. In which letter in my name an amount of f. 40,000- is offered to Theunisse, to pay for the legal costs and everything else for which Theunisse is claiming, and with the condition "that he also had to stop with his actions via the Press or Members of the Parliament". If from this formulation, the impression is arisen that the aim was to restrict the Press or the Chamber in their rights, or to deny Theunisse his right to consult Members from the Press or Parliament, about matters that concern him, then I regret this. With the condition is nothing more meant than the explication from the term Final Payment, to make it clear that with accepting this offer the case would be closed.

To close with, I inform you that Theunisse did not accept the offer and therefore now Prof. Schadee, according his assignment, will complete his binding advice, about the costs of legal assistance. The Secretary of Justice, J. de Ruiter

April 13, 1982. The National Ombudsman writes me that he has found grounds in my request to start an investigation in the case, still only about the "Press and Parliament" condition. The National Ombudsman is a State Institute were civilians

can complain about misbehavior of the Government and/or one/or more of her Servants. Well, I have a few! Complaints, that is.

April 15, 1982. My lawyer sends additional information to Prof. Schadee. (See App. 20) Also, he sends an additional declaration to the amount of f. 26,440-. The total costs for legal assistance are now up to f. 152,842-.

April 28, 1982. The Chamber-Commission for Justice Affairs writes the following letter to the Head-Editor from "The Free People" Newspaper, that the wretched Press-condition in the letter from December 28, 1981 was not correct, and that it not will happen again in the future.

Second Chamber of Parliament

The Hague, April 28, 1982.

To: The Free People, to the editor's R. Robijns en G. J. Laan, ROTTERDAM.

Dear Sirs,

Following on my letter from March 3, 1982, I can inform you now that the Chamber-Commission did received the asked for information from the Secretary of Justice. Enclosed you find a copy of his answer. The commission has taken in consideration the points you have mentioned, after which she has concluded that the formulation of the Press-condition; from the States lawyer was incorrect. In a second letter, the commission has confirmed so to the Secretary, with the expectation that in the future such formulations will not be used any more again. For the follow up in the case is now the binding advisor the person who will have to do his task, and the commission sees no task for oneself in this matter at the moment. The Secretary from the commission, Mr. T. H. E. Kerkhofs

Apr 29, 1982. The State answers on the letter from Mr. Fleskens: like all time, denying, and thinks the declaration of my lawyer is "excessive". Mr. Fleskens is calculating for his work the base-tariff of f. 220- an hour. The States lawyer is calculating for his work with f. 625- an hour. I wonder what else he is doing for that kind of money, except denying everything that we put up. Anyway, it's probably the only thing he's capable of.

Pels Rijcken & Droogleever Fortuijn, States lawyer

To the Honorable Sir, Mr. H. Schadee, ROTTERDAM

Date: April 29, 1982 Our ref.: DF/MvdH Case: State/Theunisse

Honorable Sir,

The letter from Mr. Fleskens, dated April 15, 1982, surprised me because I thought that he only had to answer you, your question from March 29, 1982. I cannot read in the letter from Mr. Fleskens that the opinions from Mrs. Bruynincxk, Van Oosten and

Waleson would have also been valid incase the State had denied to be obligated for the salvage reward. I therefore stay to my opinion that he had done better by going to Court for a short-term procedure, after having placed the ship under custody. All his extra work now, he cannot bring to the account of the State. I also stay to my opinion that a lawyer cannot ask more from his client then the principle sum in a case. The principle sum was f. 80,000-. Now that only f. 50,000- is granted, Mr. Fleskens has to limit his declaration considerably below that amount. The agreement for asking for binding advice is written in the letter from September 17, '81, and in nothing else. In the meeting with the Secretary is nothing else or more, agreed up on. In any case, into account must be taken the fact that Mr. Fleskens did a lot of unnecessary work. I assume that the discussion can be closed now. I do not feel the need for a further meeting. I am awaiting your binding advice with great interest. Yours truly: E. Droogleever Fortuijn.

June 2, 1982. Weird things happen. I receive a phone call from a, to me unknown Lady. She is giving me her (existing) address on the, a mansion area at B. The connection is bad and strange, nearly broken up and muffled, and suddenly cut off. She calls me again at once and is telling me about a bad telephone cable at B. The PTT Company will fix it the next day, she tells me. The interruptions and muffled sound continues but the connection keeps intact now. Now I hear what's on her mind: "I have followed your quarrel with the State and I feel so sorry for you. I like to help you, and has it happens, on my Bank has just come disposable a little sum of money, f. 40,000-. Yes, forty thousand. Will you take it please? Yes, as a gift. Yes for free." "Oh, you won't think about that, well as a free loan than." "I will keep it at your disposal. Just think about quietly for a while." Again, I refuse, friendly, because I do not want to put other people's money at stake. Nevertheless, I receive her phone number and complete address anyway. I'm thinking about it... Oh No! Not what you are thinking about now... Shame on you!

The next day, I call PTT-Service at Amsterdam, the district in which is B. They tell me that they do not know anything about a bad telephone cable in B. In addition, they do not know anything about commencing repairs, or complaints

about telephone-connections or about a faulty telephone-set at the address at B. the day before. Instead, they start to get suspicious about my questioning. I had better thank them quickly for the information. I write a letter to the address at B. thanking her again for the generous offer, but also with my question if she probably can lend me more money than the offer of f. 40,000-, for which loan she can take a partnership in my Company. Never again heard from. Her that is. I report the incident to the National Ombudsman.

June 7, 1982. I receive the Binding Advise from Prof. Schadee. What we had feared for all the time has happened. He agrees with the State, that my lawyer did walk the wrong road in this case. It is his opinion that I, from the first beginning should have had mistrusted the State so much, that I should have had placed the ship under custody at once, and had gone to Court. But...that is just the problem! I did not mistrust the State that much, that time! My lawyer must receive f. 40,000- for his job, and Prof. Schadee rejects any other claims because they are beyond his assignment. He brings the costs of this binding advice procedure to the States account. He says thanks for the confidence we did put in hem...



Chapter 11 THE ADVICE

Binding Advice from Mr. Henri Schadee at Rotterdam.

CASE: SALVAGE AND TOWING COMPANY THEUNISSE, seated and living at Dintelsas, municipal Dinteloord; Demander; Counselor: Mr. E. Fleskens; VERSUS: THE STATE OFF THE NETHERLANDS, seated at The Hague; Defender; Counselor: Mr. S. E. Gratama;

To: Mr. Fleskens,

To: Mr. S. E. Gratama.

June 7, 1982

Dear Sirs,

Dated September 17, 1980, you wrote me: "By this letter, Mr. E. Fleskens, at Tilburg, and Mr. S.E. Gratama, at The Hague, on behalf of at one side, G. A. C. Theunisse at Dintelsas and to the other side: The State of the Netherlands at The Hague, are addressing You with the following. A few days before September 23, 1979, on the "Aardappelbult" around 2 miles west from "The Westhoofd from Goeree", grounded the motor-ship Magdalena. On September 23, 1979, the State-Police patrol-boat RP-9 sailed to the Magdalena. At the end of the morning, the commander of the RP-9, via the Radio-room, informed Theunisse about the Magdalena, about the fact that the Crew had abandoned the ship, and also about a number of particulars of the ship, which did Theunisse asked. Theunisse, who is a salver by occupation, sailed then to the Magdalena with the Furie-2 and the Orca. The Magdalena, who was short before pulled afloat by the RP-9, is after that brought to Willemstad, by RP-9 and Furie-2. This in the fashion that RP-9 was towing and Furie-2 was pumping. Parties now like to ask you as binding advisor to establish which salvage fee can be claimed by Theunisse, considering his work done during the salvage of the Magdalena. In addition, which Costs for legal advice, included for the period before this binding advice, must be reasonably paid to him, and give advice about the costs for this binding advice. Parties will highly appreciate it if you will accept this assignment and will rule in this between them existing dispute. We imagining us in that case, that Mr. Fleskens will send you a Memory of Demand and Mr. Gratama will send you a Memory of Answer, and that the further sequence will be directed by you, with the remark that both parties will have the opportunity for pleading before you in there cases if necessary."

With my letter dated September 23, 1980, I confirmed to you that I was willing to accept the assignment to act as binding advisor in the above-mentioned case. May 27, 1981, I gave you both a preliminary advice from which the conclusion was: "Considering all this, I advise the State of the Netherlands to pay Theunisse a

reward of f. 50,000- (fifty thousand guilders) plus the Legal interest over that amount from October 9 1979, being the date the State was summoned, until the day of payment.” I consider this advice as completely repeated here and I have attached a signed copy to this Advice. On request from Theunisse - in his Memory for Demand - I limited my preliminary advice to the salvage reward and the salvage costs. December 23, 1981, at The Hague, a meeting was held at the office from Mr. Droogleever Fortuijn, between parties, counselors, and me. After Theunisse rejected a proposal from the State, done after the comparison, I received a letter from Theunisse dated February 25, 1982, named Memory after Comparison, from which the conclusion was:

“THEUNISSE IS PERSISTING IN ALL HIS ARGUMENTS, KEEPS FIGHTING EVERYTHING THE STATE HAD TRIED AGAINST IT AND IS EXPLICITLY OFFERING PROOF FOR ALL HIS ARGUMENTS BY LAW AND WITNESSES”.

With his letter from March 16, 1982, I received from Theunisse a copy from a letter to him, dated March 8, from Mr. Waleson and again by letter from March 19, a letter from Mr. Bruynincxk, dated March 16. Copies from these letters I enclose with this advice. March 26, 1982 wrote the State a letter to me with the conclusion: “You are asked to advise about which salvage reward Theunisse must receive and which costs must be paid to him for legal assistance, under which also the costs from the beginning on. I stay therefore on my standpoint that you were not asked to advise about the personal costs from Theunisse. I mark here that the State does not recognize any obligation for paying costs and damage and also reject these costs and damage. I don't see it necessary to go into this in detail.” Dated April 15, 1982 Theunisse wrote a letter on which the State reacted with a letter on April 29 1982, in which he told me: “I assume that the discussion can be closed now. I do not feel the need for a further meeting.”

On May 7, 1982, Theunisse wrote me a letter, again persisting, and offering to give his entire dossier for proof for the correspondence in the case, and declares to await now my advice. I consider all these documents, letters, additional, etc, etc, as repeated in this advice. With your letter from September 17, 1980, you asked me to establish:

- a. Which salvage reward must be paid to Theunisse?
- b. Which costs for legal assistance has to paid back reasonably to him, under which those from the beginning of the case, after the salvage, and also,
- c. To advise the State about the costs for the binding advice.

By Memory of Demand Theunisse claimed a salvage reward of f. 80,000- and he additions to his claim the what he called “costs after salvage”, rubricated as follows:

- A. Costs counselor
- B. Costs for expertise
- C. Procedure costs
- D. Costs and time spends from Theunisse himself
- E. Interests

Regarding his claim for salvage reward. In my preliminary advice dated May 29 1981, I advised the State to pay to him a reward of f. 50,000-, (fifty thousand guilders), plus legal interest from on October 9, 1979. Hereby, I repeat this advice on the grounds as mentioned therein.

b. A. Regarding the under A. named costs the following.

1. Who shall pay these costs?

I have advised to pay the claim from Theunisse up to a remarkable higher amount then offered by the State, and although Theunisse will see on other points following hereafter, his claim rejected by me, I see in reason no arguments to compensate the costs from parties, in whole or partly, like allowed by Art. 56 WBRv. Therefore, I advise the State to pay to Theunisse the costs for legal assistance, under which those from the beginning of the case after the salvage, like mentioned below.

2. Which costs shall be paid back to Theunisse reasonably?

The counselor from Theunisse did produce declarations:

Dated June 17, 1981	ad f 121.642,80
Dated April 15, 1982	ad f. <u>31.199,20</u>
Being a grand total of:	f 152.842,--

My assignment was to advise you which of these costs has to be paid back in reason to Theunisse. The word “reason” shows that I have the freedom, like stated in art. 56, WBRv. to leave those costs, which were made useless, to the party who had made them or caused them. It is the States view, that this dispute could have considerably faster and simpler been settled, and I share this view. Theunisse was demanding a salvage reward. The questions that arise in a procedure for salvage reward are:

- a. What should be the amount of the reward?
- b. Who has to pay for it?
- c. How can the salver collect his reward?

Ad a. The amount of the reward?

About this question, I have advised in my preliminary advice, which I hereby repeat.

Ad b. Who is the debtor for the reward?

The Law is answering this question in Art. 564, LoC: "The owner or user of a seagoing ship is the debtor for a salvage reward on such a ship", and parties agreed that the Magdalena was a seagoing ship. Also the question that who the user of a seagoing ship is, is answered in the Law: Art. 320, LoC. says: "User is he, who uses a ship to sail the sea, by himself or by a captain in his service." In this case, only two entities could be seen as the user and therefore the debtor for the salvage reward: The owner and the State. The owner did not use the ship to sail the sea, he was not commanding it, nor did he had a captain doing this for him, nor he had by any other means control over the ship. Therefore, he was not the user of the ship. Because the Law thinks that every ship must have a user, (See Cleveringa page 1614, who's arguments I agree with), is the absence of the owner as user of the ship, argument enough to see the State as the user of the ship. Except for this argument, there are more reasons to see the State as the user of the ship. The State used the ship, (being insofar that she towed it from the grounding place to Willemstad). She sailed and commanded the ship with her Police Force. The counselor from Theunisse noted in his plea, "Kamp transferred the Command to Theunisse", pointing to it that the State was commanding and sailing the ship. Theunisse therefore could see the State as his debtor EX LEGE. In my first advice I have stated that now, during this advice, -which was also explicitly a Preliminary advice- is clear that between Theunisse and the State was agreed to salvage. From the use of the word "now" is clear that this was not at all clear before.

My preliminary advice I have based exclusively and explicitly on Art. 552, Law of Commerce, and not on this agreement between Theunisse and the State. Therefore is not correct the conclusion from Theunisse, that I regarded the state has his contracts party at the time of the salvage agreement. In my remark about the obligation of the State to pay Theunisse a salvage reward, I did not say if this obligation for the State came out from EX LEGE, or EX CONTRACTU.

Ad c. How can the salvor collect his reward?

According 318r LoC. A salvor can claim his reward also on the ship in case a ship is not used to sail the sea by the owner, but by someone else, unless, (a) he who used the ship was not entitled to do this, and (b) if the creditor is not acting trustworthy.

About (a), the claim was the result of the success of the salvage and the State was the user of the ship.

About (b), Theunisse is by all means trustworthy.

From these remarks (a) and (b) becomes clear that the claim was due by the State.

About the right on retention: According Art. 566, Law of Commerce, Theunisse had the right to hold the ship back until he had received sufficient security for his claim. However, it is very understandable that he did not use that right, because the State, by Police force, denied him further access to the ship.

11 Custody

According Art. 566, 2e, Law of Commerce: Theunisse was allowed to place the ship under custody and Art. 318o, Law of Commerce, (Art. 318, point 14 LoC) was in this case not valid because as a voyage is not to regard a transport of a dead ship to the place of wrecking. (I also agree myself with the remark from Cleveringa in Sea-Right, on page 883n: 'That custody was possible, regardless in which hands the ship was'). That the ship was already wrecked at that time is not correct. Theunisse is a professional salvor. At the time he noticed that the State "did difficult" about his claim, was denying his right on retention, and sold the ship for a very low price and very hastily; he had must have had seek legal assistance immediately. By the time he did that, the ship still was not wrecked. At October 5, 1979, Dijkhuizen placed the ship under custody. The fact that the ship was sold is irrelevant according Art. 318o, LoC. I therefore share the opinion of the State that Theunisse wisely had to have decided to Custody. Theunisse has mentioned many reasons why he did not had done this.

a. Theunisse regarded, according his Memory of Demand, the State as his debtor EX CONTRACT. (Note), that I have followed him in this is not correct as mentioned above). From his Memory of Demand also became clear that Theunisse noticed soon that the State was denying any relation as a contracts partner from Theunisse, but also, if Theunisse was regarding the State has his contracts partner, custody would have been the right method to seek for his rights.

b. For the time being, it is correct to see the State as solvable and creditable, but it is not correct to use this as a reason, to not use the possibility of custody.

c. If the State would have called in her "Immunity-principle", is not sure. Only ships for public service are excluded from the custody rules, which the Magdalena was not. Also Art. 479a, WBRv, knows the possibility of custody under the state, but regardless the possible Immunity from the State; this was no longer the case after the State had sold the ship. And if the State had called on her Immunity, proof was thereby and then given, that the State had seen herself as debtor ex lege for the salvage reward. Mr. Waleson writes in his letter dated March 8, 1982, that he, "incase the State would be the debtor for the salvage claim, he would not had think about a custody, and also not if the State as contracts party was obliged to pay a salvage reward." As stated before, the State sold the ship for a price far below the real value, which implicated that she considered herself at most as debtor ex lege for this amount, and also, the State denied that she was a debtor ex contract. Mr. Bruynincxk in his letter from March 16, 1982, is assuming that I have established that the State must be seen as the one who has given the salvage order and as the debtor for the salvage reward. As already stated before, I did not speak out myself in my preliminary advice, about the question if the State was the one who gave the salvage order, and if she was the debtor.

d. The above-mentioned shows that I cannot agree with Theunisse that he had to put his claim on the State for his reward. It had been wiser to put the claim on the ship. Irrelevant is therefore that by the attitude of the State, in denying any responsibility for the salvage reward, are caused many difficulties, and created large costs for Theunisse.

e. Irrelevant is also the sale and delivery of the ship, what did happened according both parties. Important for Theunisse was the real value, which would have had become clear during an execution sale.

f. Irrelevant is also, that in case Theunisse had gone to Court, the political discussion would have been ended. There had been no need for that. Me is also not clear why in the same Court procedure also not could have been decided on the salvage reward itself.

g. Correct is the view of Theunisse that I was not asked to give my opinion about the chosen policy of the counselor of Theunisse, and I am not doing this. However, I am free to, and towards the State I am even obliged, to use the last sentence from the first point of Art. 56, WBRv.

h. In addition to this all, I mark here that a salvage reward also can be earned, without an explicit order for it. Also in this view, it was not important for Theunisse to establish the State as his contracts party. I make this remark outside this advice and it will have no influence on this advice.

B. For the costs under B. in the Memory of Demand, the expertise costs from Theunisse, I refer to my remarks under A. and B. In case of custody and execution sale there would not have had been these costs. I advise nevertheless the State the costs from expert Hoppzak, insofar paid by Theunisse, being the amount of f. 657.85, to pay this amount back to Theunisse.

C. Regarding the demand at C. in the Memory of Demand, I refer to my remarks under A.

D. Regarding the demand under D. about the claim for costs and time spends from Theunisse himself, I am concluding as follows. Between You and me is made an agreement by your mutual letter dated September 17, 1980, and my answer from September 23, 1980. In the time this agreement was established, I knew only from this case what you have told me. The words from this agreement are clear, and I am not allowed (Art. 1378, CL) to divert from these words by explaining. The words from our agreement are not fit for explaining and not needed is therefore to seek what the intentions of the parties were. What the intentions from Theunisse and the State were, when they turned towards me is not for me to judge on and not of any concern to do my task in our agreement. I have only received the agreement from September 17, and I have only accepted this one. That I was bound by the rules of Lloyd's Open Form, as told by the counselor from Theunisse in his plea: I repeat about this what I wrote in my preliminary advice. That I have asked Theunisse to provide me with information about his costs was only because I wished to try to reach a settlement between both parties, including all your differences. This was only possible if I knew all the costs. In a possible settlement, I could have had taken in account these costs. In now way, was I trying to give you a binding advice on these costs. Considering the above mentioned it is not possible to advise as such. About sub D, I therefore do not give advice.

E. Regarding E, I already did advise in the preliminary advice, and I repeat that here.

Regarding the Memory of Demand, A, B, C, and E; it is now my task, according the letter from September 17, 1980, to establish which costs for legal assistance must be paid in reason to Theunisse, also included those made in the period before this procedure. The costs made to establish that the State was the contracts party for Theunisse, were made unnecessary in my view.

Therefore, I advise these costs as reasonable and justified on an amount of f. 40,000-, being the costs Theunisse would have had if he had followed a better and

wiser way for proceeding in this case, to be added with the part that Theunisse paid for the expert Hoppzak.

c. Also, I accepted your assignment to speak out about the costs of the binding advice procedure, which I have established on f. 7,500-.

(Seven thousand five hundred guilders), And I advise the State to transfer this amount to my account nr. 297760. I conclude therefore, conform my advice from May 27, 1981, and rejecting every offer for proof regarding irrelevant points; I advise the State to follow my sub B and pay to Theunisse f. 40,000-, for legal counseling, and me f. 7,500-, and not to fulfill any other demands. Following his request, I hereby return the picture reportage to Mr. Fleskens. I request you to confirm to me receiving of this letter and the picture album, and I thank you for the thrust you put on me.

Yours truly, H. Schadee



View from the bow at Willemstad.



Passing the Haringvliet Bridge.



Full power to Willemstad after passing the bridge... Towards my own misery.

Chapter 12 COMMENT & FOLLOW UP

About the case in principle, the salvage reward, your storyteller was moderately satisfied. But that was also the only thing I was satisfied about. If the State had negotiated the salvage reward with me within a few weeks after the job, I would have accepted f. 40,000- also. I even had it put in a Newspaper that time. It didn't any good tough. The rest from this advice? What a pile of bullshit! To begin with, Prof. Schadee stated "That between Theunisse and the State a salvage agreement was developed; irrelevant is if we have to qualify this as an order."

So, thinks Prof. Schadee. Since this is reason enough to shove a small pile of money in the direction of this raskall of a Theunisse fellow, for his salvage reward. I ignore all the rest from the shitty story, and I declare this salvage-order being a salvage 'ex legit' and no salvage 'ex contract', because otherwise it all

becomes to embarrassing, (for the State). This could have had been an honorable gesture from the Professor, if not this caused many problems, especially in getting be paid for additional costs and damage, like is proved by now. In addition, if the Professor was right, it had to have been an entirely other salvage case. Yes something about a ship. But not impounded, not with the crew arrested, not abandoned, no Police in sight, no idiotic illegal sale for a lunatic price, nothing at all from this. In the backside of his head, he kept a little space free for me, a short while, for all my extra costs and damage. And he did a little fishing for it by the State, in writing as also verbal, later at meetings. But the State not only swallowed the bait, line and rod, but also almost the fisherman!

During the last meeting, Prof. Schadee was no longer the binding advisor, we were agreed up on, he should be, but he was a beggar, pleading for a favor for me. It was disgusting! Prof. Schadee knew already for a long time that the last thing Theunisse could hope for was a favor for him, from the State.

Please, believe your storyteller that I, in a case similar to this Magdalena case, but without the State involved. No owner, No Insurance, and a real so-called salvage Ex legit; meaning without a specific order for salvage. I would have had taken the ship immediately to my homeport, had it heavily tied up at my place, had it guarded constantly. In addition, I would have had placed my bunk on it to sleep onboard, and never - and I mean never - had let go without my money first! However, in this case the State was all over it, before, during and after the salvage. To this ex legit nonsense, Prof. Schadee could nicely connect his thoughts about me, not placing the ship under custody. The only trouble for him was that he had to convince me that I had to distrust the State so much after the salvage, that I indeed had placed the ship under custody. Apart from the fact were this will put the State in this thought; it was like this at the time: The fact that a few lowlife civil servants like Kamp and Rijpkema disturbed things in the beginning was no reason for me to doubt the good and rightful outcome, once their superiors had heard about the case. On the contrary, the moment that we did send the Summons to the Department of "JUSTICE", I was convinced that everything would turn out right now!

I DID NOT DISTRUST THE STATE BUT I SIMPLY TRUSTED HER!!

IF somebody, anybody, had come to me that time and had told me what was going to happen, that the State was going to act, has did happen, I would have had told that person to get his head examined. I trusted the State and that's it. This is not

naïve. IT IS A CIVIL RIGHT, THAT ONE CAN PUT TRUST IN ONES GOVERNMENT!

That is why the anger went so high and disappointment went so deep when your storyteller learned that the State in her business and society relations does not mind to act as the lowest of us all, and even is not civilized enough to say sorry when things went wrong by her faults. Prof. Schadee had better done to honor the trust that I had given the State instead of ignoring it. However, he was an old man, completely packed in by the State and not able to stand up once more.

Of course did I have a salvage agreement “ex contract” with the State. See again the way in, and conditions on which, Adjutant Kamp set me in motion, to begin with for example “Veronica Magazine”, and various Newspapers: “Sunday September 23, we have chartered salvage-ship Furie-2 on a “No Cure-No Pay” basis.” Verbal agreements are just as legal and binding as written agreements. Sometimes, with verbal agreements it is difficult to gather and deliver proof for that an agreement is indeed made, for instance with an unwilling contracts-party, but this was not the case here. The evidence was overwhelming. But the State was unwilling and blunt in spite of all the evidence against her, on top of it: evidence gathered from and with the help from her own Servants, The State-Police, and Internal-Affairs, of all people!

Your storyteller closed a verbal agreement by telephone, for the salvage of the Magdalena. The person on the other side was a Policeman representing the State and in duty on the Radio-Room at Dordrecht. This is an office from the State, from the Justice Department. The agreement was made in the last of three telephone calls, needed for giving me information about the situation of the ship. This Policeman was acting on behalf of another representative of the State, also a Policeman, onboard of a Police-patrol boat, and who was on the scene of the ship in distress. My last question in the 3^e telephone call was: “Who is given the order?” The Policeman answered quick and without hesitating: “The Officer of Justice at Amsterdam.” Then, I accepted the order and after we finished the connection, this Policeman noted the short sentences of our conversation in the daily report from his shift at the Radio-Room. The formulation, the conditions, and the length from our agreement were such that there was no room for mistakes or for “explanation”. In this context, your storyteller marks here that in his job as a professional salver, it has never, never happened, that I received a salvage order or agreement in any

OTHER way than VERBAL. Verbal agreements are inherent to this line of work. They arise, unexpected by both parties, under pressure from sudden circumstances in which a ship can end up in, and becomes in need for help from outside.

That is why it is of utmost importance that the salvor can put thrust on his contracts-party. This thrust must come out of the information he receives in most of the time short and brief contacts by radio or telephone with the other party. Decisive for the thrust, necessary for the salvor to decide to take the order, can be the identity of the other party involved. In this case, the salvor knew the identity of the other party. **It was The State of the Netherlands.**

The agreement “ex legit” was the mortal loop; Prof. Schadee had to make to prevent the State from going down in deep shit all the way. Stay with me and think about it... “Ex contract”, which was in fact the real, but ignored, situation, the following would have had happened: First, the state violated the contract by deliberately worsening the situation in which the ship was, just before I arrived. I had received clear information:

“The ship is grounded and making water.” After that, the State violated the contract by ignoring my right for retention on the ship by removing it. Now, this Removal would have had turned into Theft. This would have caused interesting consequences for the State, Pieters, Kamp, Rijpkema, and the Heuvelman Brothers. Heuvelman now turned out to be a buyer of stolen goods, knowing very well that he bought the ship for a far too low price!

“Ex contract” or “Ex legit” makes in principle no difference for a salvage reward, but now; thanks to the behavior of the State in the case, my costs and damage raised quickly above the salvage claim; the difference between the two principles became very important.

Meanwhile, picture for this the economic consequences for your story-teller:

At the end of the binding advice procedure, the situation was like this:

Out of pocket costs for salvage	f. 40,000
Cost for legal expenses	f. 152,842-
Extra costs and damage estimated on	<u>f. 180,000-</u>
Total expenses	-/- f. 372,842-

I received for salvage fee,	+/+ f. 50,000-

Prof. Schadee did not ever come close to salvage, nor did he ever close a salvage agreement. During the meeting before the preliminary advise he spoke in that terms with Mr. Hoppzak and me: "In fact I cannot imagine Mr. Theunisse what it is, being busy with a ship in great danger like this, like in the Hold with all this water and the rubble floating around." Yes Sir, writing and judging about it is an entirely different matter! That is why it is for us, everyday practice professionals, sometimes very difficult if our "fate" is placed in the hands of theoretical people and sometimes the strangest, most exotic verdicts follow!

We were the ones that found Lloyds Open Form valid. (See salvage claim, 09-26-'79, and salvage claim Summons, 10-04-'79.) This at the very beginning of the case. We agreed, at least confirmed us with the proposal from States lawyer, Mr. Bouma to go to London. See letters from Bouma, 10-24-'79, and Fleskens, 10-26-'79), also at the beginning. Arbitration at Lloyds London is in all aspects equal to any Court procedure. There is one big difference tough: At Lloyds are the Specialists found, not at a regular Court. In spite of our willingness to go to London with the case, the State is all the time complaining that Theunisse refused to go to Court!

Secretary J. de Ruiter: "A complicating factor was that Theunisse did not turn to the Judge." Mr. Gratama and his idiotic behavior cut off this possibility, asking a Court (Lloyd's-London) in a very early stage, by replacing Mr. Bouma!

Your storyteller would have had liked it: with this case before Lloyds. There would have been nothing left over from the State or the States lawyer!

On a date in June more weird things happen: On the Head-office from RABO-bank, my "house bank", a telephone call comes in from the Department of Justice: They are requesting to take measures against "this Theunisse", because it is getting very annoying what this man is doing all the time. They think to know that the Rabo-bank has possibilities for this, since I am far behind in my obligations towards the bank. Much later, I will meet a member from the Board of the Rabo Organization who is willing and prepared to be a witness under Oath, before a Court about this, if I should need that. The request from the Department goes from the Head-Office at Utrecht to the Region-Office at Bergen op zoom, and from there to the local Rabo-bank at Dinteloord, my bank.

July 30, 1982. The Rabo-bank is first placing conservatory custody on my Company and all my possessions, followed after 24 hours by executorial custody,

for a total amount of f. 1,200,000.-. I get 30 days to pay this total amount back, after which term the Bank will foreclose...

July 31, 1982. The Newspaper "The Telegraph" has a little scoop on this event, complete with a picture of me together with the Bailiff, handing me over the Summons-papers. Question: How did they know about this "scoop"? Not from me I'm telling you! But the Bank is not selling after all, for which she earned my eternal thanks. About a lifting of this custody, I have never heard a thing until today...

Aug 9, 1982. The National Ombudsman, Professor Mr. Rang, together with an Investigator, Mm. Lucardie, is visiting me at my place and we speak a whole day about the case.

Aug 31, 1982. The Rabo-bank is charging me for the costs of the custody on my Company: f. 5,804.55.

Sep 6, 1982. My lawyer writes the State that we are rejecting the binding advice from Prof. Schadee, as well as for order of procedure, as also about the content:

MRS VAN DEN HEUVEL & FLESKENS, LAWYERS & PROCURERS
EXPRESS MAIL, WITH CONFIRMATION OF RECEIVING.

The State of the Netherlands, Seated at The Hague, To the attention of the Procurer-General, High Court of the Netherlands, Square 2, 2511 CA, THE HAGUE.

TILBURG. September 6, 1982.

Case: Theunisse/State of the Netherlands. DOSSIER NR: EF/MVS

Most honorable Sir,

In the above-mentioned case, Mr. H. Schadee produced binding advice. The by Theunisse claimed costs for damage-payment and legal assistance were not, respectively partly granted. Theunisse considers himself not bound by the content of this advice and keeps insisting on full payment of his damage and costs, and finds this binding advice as well for the "order of Procedure", as also for the content invalid. Theunisse keeps therefore all his rights, and also the right to claim for this by grounds of Law. For your information, I enclose a copy from the binding advice, dated June 7, 1982. Copy from this letter I send to Mr. Droogleever Fortuijn. Yours truly, Mr. E. Fleskens.

Oct 26, 1982. I receive a long list with questions from the National Ombudsman, about which he will have a meeting with me at his office in The Hague on Nov. 8, 1982.

Nov 8, 1982. To The Hague for this meeting.

Dec 17, 1982. The Rabo-bank demands from me that I sedate all my possible future payments, received from the Mi-Amigo case, to the bank.

May 3, 1983. The National Ombudsman finds reasons for extension of his investigation in the case, and decides on grounds in the Art. 12 and Art. 14 of the Law, 'National Ombudsman', to further extend his investigation.

Aug 21, 1983. Even more weird things happen: I receive a phone call from a dude saying he is from The Hague, who wants to talk with me. We make an appointment for a meeting at my place. I am always in for talking with The Hague! He is promising to come right away to Dinteloord. And indeed: this dude shows up and calls himself Mr. Kristallijn, a real gent he is, (nice suit). He tells me: he is representing a large Company in Electrical equipment and Installations at The Hague, and searching for new investments?!

(What's this got do with a small ships salvage firm?). This man shows great interest in my little Company, inspects the ships, looks in the bookkeeping, is asking a ton of questions, and at last is casually informing about the state of affairs in the "Mi-amigo case". "He had heard some stories about this affair," he is telling me. At the end of a one and a half hour visit, he's offering me a partnership of his Company in my Company and is willing to pay me One Million Guilders for it...

I am not lying, I drop dead first. He asks me to think about it, gives me a phone number at The Hague, and is leaving the premises, leaving me behind, totally flabbergasted...

The next day, I check out the telephone number, this person gave me. I dial the number and at once, I am connected with Mr. Kristallijn, still positive and waiting for me! I discuss this event with good friends from the Police, which I still have, who tell me to be very careful with this person, about everything I say in possible future contacts. Instead of that this dude Kristallijn, told me the plain and simple truth. And came to tell me that "His Company" want to do business with me, to end my affairs with the State, which he could had managed with me for a far

smaller amount, but without any stupid “partnership”. He is offering me a silly amount of money for a “partnership” which I do not want, never. And then, after a few weeks, months or years throwing me out from the backdoor I guess. It did happen before you know. Thank you, but No thanks!

It is saying something tough, about the weak position the State finds itself in, if she starts to use these silly kinds of methods. I guess there is a pot of gold somewhere to finance such lunatic operations, but obviously not for paying an ordinary salvage fee, without creating a big mess. Meantime, I experienced this thing as very threatening and intimidating. Because, what will be the next desperate lunatic move of “Big Brother”?

I report the incident to Mm. Lucardie from the National Ombudsman’s office.

Aug 25, 1983. Mm. Lucardie calls me, all excited, and thrilled “That she, together with a colleague, yesterday went to the Department of Justice un-announced, short before closing time, and with a written full authorization from the National Ombudsman.” “They had introduced themselves at the Police-Division in the Department building, were they had copied the whole shebang of the “Mi-Amigo Dossier”, which was now not possible to “clean” first by the “bad guys”. They were busy with it until late evening hours and they were very excited and pleased with the result!” “During their action, the entire top brass was also still in the building, gathered in an emergency meeting about this thing,” “Which was unique”, I understood from her. Indeed it was. Because not too much later, the “Law, National Ombudsman” got amended in a way that these “outrageous” things could never happen again!

Since this event, I have tried several times to contact with Mr. Kristallijn on the telephone number he gave me. But alas, I never succeeded... The number was no longer in use the PTT told me! He also never bothered to get back in touch with me ...

Nov 17, 1983. The National Ombudsman writes me, telling he is still busy with the investigation.

March 20, 1984. Again, the same and he asks understanding for the long duration.

Nov 7, 1985. At last, I receive a report about the results of his investigation, with excuses for the long time it took, and asks me for my written comment.

Feb 18, 1986. I have a long phone call with Mm. Lucardie about the case. Among other things, she tells me: “Mr. Theunisse, Sir, there are things happened in this case, much, much worse then you ever thought. However, you will never know. We are not allowed to speak about it ever again.” Later she quits this job and moves to another office at The Hague. There are plenty of them. Now What?! I am asking a brand-new institute from the State, designed and established to handle complaints of Civilians about the behavior of Servants of our State, to handle a series of complaints of me, and I got answers like this! What good will this do, except making me angrier, if possible at all? What is the use of it? Going to the bottom with an investigation. Finding probably a lot of dirt, and then telling the complainer, it is much, much worse than he could ever imagine! But do not tell anybody, me included! Man, Oh man!

Feb 21, 1986. At last, I receive the report from the National Ombudsman in the “Mi-Amigo” case. (See App. 21)

The conclusion is that the State of the Netherlands did act “not properly”.

Right down shocking for me is his conclusion about the conduct from the States lawyer.

“That there is no way to create a responsibility for the State about the behavior of the States lawyer in this case.” In my opinion, this is bullshit, the State had deliberately chosen to oppose me in my salvage claim and had deliberately chosen to defend herself by means of this lawyer and ignored all my efforts to settle the matter in an amicable way. As I said before, a lawyer is in general a “paid for hired hand” in a case. This is also true for the States lawyer. His client, incase the state, stays responsible for the actions taken. Repeatedly the Secretary of Justice told the Press that he, “in this affair”, was carefully checking on things now, and not wished to be misled by civil servants or the States lawyer anymore. Repeatedly the States lawyer told the Press and us that he was only carrying out the instructions from his client, the State!

One day, I was with a friend, he was a lawyer, sitting in a bar having a few drinks. We just had finished a nice deal with the Insurance people from a ship, on which I had done a good job. We were in a good and cheerful mood, things turned out fine that day. It happens also... We were just sitting there talking things over and drinking, having a bite to eat and so on: When it came on this stinking case again. This big loss of money in a way like this stays in your head for some time you know. Therefore, I sat there, starting wailing, cursing and yelling about these

stupid Laws, which are allowing such things, from which I don't understand one fucking bit. My friend looked at me, shaking his head, smiling pitifully, and told me to listen to him. Meanwhile he had the hiccups...

"You are dead wrong my friend. You are talking about Law, but there is no use for that.

Law is something you do not have anything to do with.

You're a decent guy; you do not kill, steal, lie, and cheat, or fuck around; noting of that.

You are just an honest guy, willing to work his tail off, if necessary.

So, what is your business with Law?

Law is for the Bad guy's and the Lawyers and the Judges and that kind of people.

Law is a deep dark dungeon full of creeps like me, and I am still a nice one, haha!

But I am serious here. There are only two kinds of people on this earth.

No, no! Not male and female! You're nuts, you fruitcake!

I mean of course the Good and the Bad kind!

Gimme your glass, it is empty again!

The good do not need Laws, they are okay by themselves, and they stay on the right and narrow path. The Law is for the other side, where the Lawyers are, haha!

Dead serious now: Also, the people who are in "Service of the Law", and all that crap, are divided in two groups.

Ha, now you guessed it right my friend! Sure, the good and the bad guys.

And the bad ones make the Law a dungeon, smelly, damp, dark, and very dangerous for decent people like you. You do not belong there! It is another world out there!

But, all those millions of rules of the Laws, you are supposed to know them.

You know that, do you? Well, that is crap too.

The bad guy's! Meaning, the ones you are fighting AGAINST all the time:

Those are the people that have to know the rules of the Law!

To get around it, you understand? Gimme your glass...

Therefore, you do not believe ever again all this crap about your Rights, you hear me?

People like you, Guarded by the Laws, and about Ethics and Rules for lawyers and such. It is BULLSHIT! The Law is big business, and that is what it is.

The Law is there to make money, lots of it!

Everyone, and I mean everyone, knows that you were right in this case, right from the beginning, and that the Government assholes made deliberately a mess of it.

But nobody gives a damn about that! They could not care less my friend.

On the contrary, the more you fight, the more money everyone is making!
 You, fighting yourself silly, banging against the wall with that stubborn head of yours bleeding and all until you die crazy and flat broke, and they keep laughing their heads off, still making money on your expenses!
 You're screwed big, big time here by the State.
 So what?
 Taxpayers are still plentiful to pay those bad guys in their dungeons!
 So, you tell me: for what reason on earth should they give in on you?
 For being ashamed and saying SORRY?
 ARE-YOU-NUTS-OR-WHAT!?!... THEY WON'T! NEVER EVER IN YOUR LIFE!
 S, S, SHIT! This bottle is also already empty !
 Damn! Were do you stash all this liquor man?
 B' Bitter, me? No way, my friend. I am just a realist.
 I think, I will p...pick another of these little cheese cubes... They do taste good!"



Our baby just moored at Willemstad. Safe...? My ass!

TV and writing Press found a new item after Dr. Rang finished his report. Even Prime Time News on TV paid attention to it, and also did the writing Press. I for myself am still in limbo here: Are they indeed so arrogant and thickheaded? It is possible I guess. Or are they really so plain stupid. Also, this is possible I think. They are in my opinion just a bunch of good for nothings in expensive suits, spending tax money by the billions just for the hack of it, thinking only about office-closing time and the fastest way home. A local newspaper did spend an editorial comment on it as follows:

THE VOICE, COMMENT

Thickheaded

The report from the National Ombudsman about the Mi-Amigo story showed clearly that Employees from the Justice Department from high up to down low did made judgment errors, to say the least. Victim of this was the salvage Company from Geert Theunisse at Dinteloord, who with the full force of his craftsmanship, and under difficult circumstances succeeded in the salvage of the Magdalena, the broadcast-ship from Mi-Amigo. He had to fight for years to receive is well-earned payment.

All this fighting and stress have had a bad outcome for Theunisse, as well financial as also for his health and well-being. That he is demanding for justice being done is not that strange. The Department of Justice is thinking otherwise tough.

They point to the Court, were Theunisse should go, if he thinks he has to claim something. The almost bankrupt salver cannot take those risks anymore, because another procedure against the State can be very costly, he already experienced, because the States lawyer had promised to fight him until they were standing before the High Court.

A personal intervention from the former Secretary of Justice, J. de Ruiter, appeared to give the solution. Appeared, because he also rejected to pay for the costs and damage that Theunisse has suffered in the case, about a 300,000 Guilders in total.

The National Ombudsman was not pleased with this attitude from the Secretary. Although he also puts question marks at the amount from the claim from Theunisse, he is absolutely sure that Theunisse did suffer damage because of the behavior of the State in this case. From such an outspoken opinion from the National Ombudsman, the Department of Justice must learn a lesson, one would

think. The stranger it is that on this department no move is planned for in the direction of Theunisse. If Theunisse thinks they owe him something, he has to make the first move.

Meanwhile is crystal clear proven that the offices at The Hague are filled with thickheaded figures, which are spending easier a lot of money on the States lawyer, then for paying a hardworking civilian his hard-earned money for services rendered. These same bureaucrats are still also hard to teach. As soon as the name Theunisse is mentioned, they put up all armor they got. They therefore also have never heard about being decent. For so much thick headedness, the political arena cannot close their eyes. With again written questions to the Secretary, the VVD party already fired over the bow. For his answer, the Secretary does not need his allowed 20 days in this: A large and well meant 'excuse us' is on its place here, and even more so, a good handshake with Theunisse.



The Magdalena. Home base from the radio-station 'Mi-Amigo'. Stil in more cheerful days.

Chapter 13 THE SECOND ARBITRATION

Feb 22, 1986. The Press-delegate Mm. T. Faber from the Department of Justice is conveying to the Press that if Theunisse wishes to have contact with the Department, because of the report from the National Ombudsman, they will here so in due time. Oh sure, by all means don't strain yourself!

Feb 25, 1986. In a letter addressed to the Secretary, I confirm the receiving of this report, and that in my opinion, there are reasons for a meeting.

Apr 2, 1986. The Department answers (Secretary-General Mr. L Oranje) that they agree with a meeting.

Department of Justice

To: Mr. G. A. C. Theunisse, DINTELOORD.

Your letter dated February 25, 1986.

Our ref: Police no. 357/586

Subject: report National ombudsman.

Date: April 2, 1986

Answering on your above-mentioned letter I convey to you, being willing to have a meeting, following the report from the National Ombudsman in the Mi-Amigo case. In case you will have legal assistance present during the meeting, I request you to tell me who will be with you. To make an appointment, you can contact our Mr. R. Cleton, head of staff, Private Law, (tel. 070-706900). The Secretary of Justice. In name of the Secretary, The Secretary-General, L. Oranje.

Department of Justice

To Mr. P. Blussé van Oud Alblas, ROTTERDAM From: Mr. R. Cleton

Your letter:

Our ref. Staff Private Law

Subject: State of the Netherlands/Theunisse

Date April 22, 1986

I convey to you that the meeting about the above-mentioned subject will be held at the Department of Justice, Schedeldoekshaven 100, at the Van Schaik room (L 342), May 7, beginning 13.30 pm. Yours truly, D. Overduin (secr.)

May 7, 1986. A meeting is held at the Department of Justice: How I just hate this name! Present are: Professor Mr. R. Cleton, head staff, Private Law: Look here, another Professor! Mr. B. Wubs, States lawyer, again another one! And Mr. P.

Blussé van Oud-Alblas, my lawyer. In combined forces with Mr. E. Fleskens, my other lawyer. And Yours truly.

After an endless discussion, we can move the State to the following statement: "To be willing in principle to pay for Theunisse's supposed damage claim." I convey to the State that I demand to receive f. 300,000- for provable damage and f. 200,000- additional payment for immaterial damage, being a total of f. 500,000-, a nice round figure. If only it could be that simple, I should have known better by now! First, we have to agree about the text and formulation of the "principle willingness" of the State, and after that, we maybe will discuss the amount of payment.

Now, almost 5 months follow, trying to get a better deal with the State about the "principle willingness". They are as lenient as concrete, and they will never learn.

(See App. 22)

Around this time, exhaustion and stress are beginning to get me. This infinite consuming of time together with the financial pressure, the one strengthening the other day by day, is forcing me to agree with a limited principle agreement, which is absolutely insufficient to cover for all my damage. Valium and beta-blockers are becoming a part of my daily nourishment. My blood pressure looks more and more like a steam engine under full load, and becomes chronically high later, and shal stay that way.

Nauta-Van Haersholte

To: Mr. B. D. Wubs, The Hague

Rotterdam, April 3, 1987,

Case: Theunisse/State.

Amice,

Hereby I refer to our phone call. For reasons of clarity, I summarize below how we have to calculate the damage that Theunisse has suffered because he could not deploy the Manus on time. In my opinion we have to follow the same method as we do in any other case, were a ship is temporary not available, and one has to pay for it, which is as follows. First we have to establish as good as possible what amount of money the ship would have had earned in the same period if it was available. Incase it had been a normal inland freight barge or a seagoing ship, we have had looked at the earnings in the 3 months before and 3 months after the delay-period. Incase of a fishing vessel, we would have had looked at the earnings of colleague ships in the period of delay. This case is about a salvage ship and

therefore we have to look as good as possible which jobs he did miss in the delay period. The gathered information is an indication for this. Probably he could have had more work for this ship, because possible customers heard soon enough that the building of the Manus was delayed, and didn't bother to call any more. From this gross-earnings we have to deduct of course the variable costs in case he could indeed have had done these jobs, like fuel, personnel, and insurances. It is not surprising to me that in case the Manus had been ready on time, the yearly profit of Theunisse had been much higher, because the investments were done the years before, and earning money can only begin after the ship became available, and with two ships, Furie-2 and Manus, one can make more money. Please let me know on short notice when Prof Cleton and you are ready to meet us. Yours truly,
P. Blussé van Oud Alblas.

The principle agreement leaves me two possibilities:

- A) A amicable settlement, (Who believes in such a thing with an enemy like this?)
- B) A binding advice.

May 23, 1987. Months later, I remind the Department once again for some action.

June 2, 1987. The Department answers that arrangements are made to have a meeting.

June 18, 1987. According alternative A), a meeting is held at the office of the States lawyer, Mr. Wubs. Mr. Wubs offers on behalf of the State to pay f. 50,000-, for all damage. I have to reject this offer for only one reason: It is too damn low Sir! After another half hour of pleadings and arguments from my lawyer and me, this nitpicking asshole is offering f. 70,000-, saying that this is the absolute maximum, because otherwise he will get in big trouble with the States Accountancy! He is telling this with a dead serious poker face. Every year, hundreds of millions of Guilders get wasted by the various Departments, and memorized in the yearly Accountancy books, without any improvement in sight. Now, this asshole expects me to believe, they will stumble on the few bucks of a rightful damage payment to a civilian, and will start to complain! I also cannot accept this ultimate offer from the State for the same reason, far too low. Only alternative B) is left now, a binding advice.

NO CURE-NO PAY



Versus

The Dutch State

De MI-AMIGO Chronology

By

Geert Theunisse

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Part-3

June 24, 1987. I tell the State that I do not agree with their last offer and therefore that a binding advice has to follow. My lawyer proposes the State to make a choice out of 3 very well known lawyers of the Maritime sector in Rotterdam and already familiar with the case, being: Mr. G. Bruynincxk, (also deputy judge at Rotterdam), Mr. M. van Dunne, (also deputy judge at Rotterdam), Mr. H. van der Wiele, (also deputy judge at Rotterdam).

Nauta-Van Haersholte

To: Mr B. D. Wubs, The Hague. Rotterdam, June 24, 1987, Theunisse / State Amice,

I hereby refer to the last offer from the State of F. 70,000-, which offer is not negotiable and if rejected, a binding advice has to follow. Theunisse is rejecting this offer and choosing for the second option. Now we have to start with finding us a binding advisor. We are thinking about Mr. van Dunne or Mr. van der Wiele or Mr. Bruynincxk. I like to learn your reaction on this point. To outline the procedure, I propose that I conduct a informal Memory of Demand, which will repeat for the most part my letter to you from February 16, 1987. With included the Costs and Damage Estimation from Mr. Fleskens and the report from the National Ombudsman. After which you answer by Memory of Answer, and to conclude, we will have a meeting before the advisor. Can you agree with such a procedure? I have the feeling that, if we can solve this (little) dispute before and with the help of a third party, considering all emotions of the past; this will be the best solution. Yours truly, P. Blussé van Oud Alblas.

Aug 25, 1987. Again, I try to move the State into some action because we still have to make a choice for a binding advisor.

Sep 1, 1987. My lawyer does the same.

Sep 2, 1987. Again, I poke around in the bee's nest to stir things up a bit.

Sep 4, 1987. The Department is letting us know that they think about a Professor Brunner from the University of Groningen as the new binding advisor. Because I don't know anything about this man, at that moment, I convey the message from the Department to my lawyer, who on his turn is informing the States lawyer about this choice. Much later, it will show that this Prof. Brunner is familiar with the "inner

circle” from the Justice Department gang, and especially chosen as the hatchet man to finish me off definitively.

Department of Justice.

Schedeldoekshaven 100, The Hague. To Mr. G. A. G. Theunisse, Dintelsas, Dinteloord.

Our ref: Staff, Private Law. Subject: Salvage “Mi-Amigo”. Date: September 4, 1987

Dear Sir,

With ref. to your telex from Sept. 2, 1987, I convey to you that the Secretary of Justice is proposing to approach Professor Brunner from Groningen if he wishes to be appointed as binding advisor in the dispute between you and the State about the “Mi-Amigo” case. Yours truly...

Prof. Brunner, by coincidence (?), was a former colleague from the new Secretary of Justice, Mr. Korthals-Altes, and before his appointment as a Secretary in the new government, also lawyer at Rotterdam. Afterwards I can understand that he preferred to have his old pall to be the binding advisor in this case. Afterwards that is!

NAUTA VAN HAERSOLTE

To Mr. B. D. Wubs, States lawyer, The Hague

Rotterdam, september 7, 1987, Theunisse / State

Honorable Sir,

In absence of Mr. Blussé, Mr. Theunisse told me that by the Department, Prof. Brunner is proposed to be the binding advisor. We of course agree with this proposal and I request you to inform Prof. Brunner conform. Yours truly, P. F. Bokhout- v. d. Velden, secretary

Oct 1, 1987. A first meeting is taking place between the Advisor, the State, and my lawyer. I was not present, busy trying to keep my Company alive; so, everything that happened from now on was my own fault and at my own risk. They agree that before the end of October 1987 my Memory of Demand must be presented to the Binding Advisor, where after the State will answer. (See App. 23)

A verbal handling is held on December 9, 1987 at Rotterdam, and plea notes are served. The advisor is asking some questions and gives me the opportunity to say a few words. I tell him that I, with my Company, have done so far

around 500 assists and salvages for a wide range of all kinds of ships from all kinds of owners. And that none of them had treated me in such a scandalous way as the client in this case, the Dutch State. I ask him for any comment on that, which he is not giving.

March 1, 1988. I remind the advisor about the fact that I am still waiting for his report. March 16, the advisor is letting us know that due to circumstances, it took some time before finishing, but that in the next week we can expect his binding advice.

March 26, 1988. I receive the binding advice from Prof. Brunner from which the content is devastating for me: He advises the State to pay me f. 20,000-, for proven damage, without any interest, and advises the State to pay for the advice, f. 6,000-. On the next pages, you find the “high lights” from this advice, which I had to shorten, because most of it are repetitions of all the stuff from the past, like from Prof. Schadee and the National Ombudsman. For all my thrust and giving in to the so-called “principle willingness” from the State to pay for damage done, I receive my reward now, A meager 20.000 guilders, just about enough to cover my phone, mail and travel bills! This cannot - and will not - be the end of it... Prof Brunner, and the Nat. Ombudsman for that matter, are repeatedly referring tot the – Not Valide – binding advice from Prof. Schadee, and following him in his arguments. This makes also HIS advice and the verdict from the Nat. Ombudsman Not Valide!





Busy making preparations for the coming night.

Chapter 14 THE VERDICT

BINDING ADVICE from Prof. Mr. C. J. H. Brunner

Case: G. A. Ch. Theunisse, living at Dinteloord, demander,

Counselor: Mr. P. Blussé van Oud-Alblas

Versus The State of the Netherlands, seated at The Hague, defender,

Counselor: Mr. B. D. Wubs

1.1 By letter from September 11, 1987, Mr. Wubs as counselor for the State, and Mr. Blussé van Oud-Alblas as counselor for Theunisse, did ask me to give binding advice in a between them existing dispute. The request is grounded on an agreement between parties, found in a letter from Mr. Wubs, and conducted in the following formulation:

“The State declares to pay a reasonable damage payment to Theunisse, if and insofar he can reasonably prove that because of the delay in the procedure about the salvage reward in the Mi-Amigo case, insofar the State can be blamed for this delay, the completion of his new salvage ship also is delayed and he therefore has suffered damage. Like estimated in the oversight Costs, and Damages from Mr. Fleskens, dated 09-29-1981. In case parties cannot agree about this, a binding advice will be asked from a advisor, whom will be appointed by Mr. Wubs and Mr. Blussé. With exclusion from the above mentioned Theunisse declares that he shall not have further or more claims on the State in the case of the salvage of the Mi-Amigo.”

1.2 In my letter from September 12, 1987, I have confirmed to both counselors that I was willing to give this binding advice, after which we have met in Rotterdam on October 1, 1987, in which meeting we agreed about the procedure to follow. Also, that both parties would pay for their own costs, and who would pay for the advice. All these points I confirmed to both counselors by letter from October 2, 1987.

1.3 On October 29, 1987, Mr. Blussé did send me a Memory of Demand, and Mr. Wubs answered on November 20, 1987, were after on December 9, 1987 a meeting was held. Present were also Theunisse, and for the State, Prof. Mr. Cleton.

1.4 I base my advice on the Memories and the Production's, and on the plea-notes from both counselors, and on both binding advices from Prof. Schadee, and on the report from the National Ombudsman.

2.1 Theunisse requested me by Memory of Demand to advise the State to pay him for damage done, a sum of at least f. 164,588.40 plus interests and possibly plus f. 15,000- for his extra expenses as traveling, telephone, mail, etc, or an amount according to my judgment. The State requested me to deny and ignore the claims from Theunisse.

2.2 The claim from Theunisse is based on the principle that the handling by the State of the salvage case from the Mi-Amigo was wrong, that he had suffered damage because of that.

2.3 According the Law, and in principle, for a delay in a payment one can only demand for the legal interests. By binding advice from Prof. Schadee, the State paid Theunisse a salvage reward and also the legal interests over this payment.

2.4 Would there be no, in principle other agreement reached between parties, than Theunisse could not demand any further payment for other damages. Like is showed in the agreement under 1.1, parties did divert from Art. 1286, BW, in favor

for Theunisse, now the State admitted to pay Theunisse for proven damage, if for this damage the State can be blamed.

3.1 The principle agreement limits the responsibility from the State to loss of earnings only. Theunisse is also claiming extra costs, he had made in the salvage reward case, around f. 15,000-. In my view, these costs are excluded from the agreement and outside my assignment. I shall therefore not advise the State for any payment for these costs.

3.2 The agreement under 1.1 is depending on two conditions, being: 1), that the delay in the completion of the salvage ship Manus, the State can be blamed for, and 2), that he, reasonably proved, had suffered because of that, a loss of earnings, like estimated in the letter from Mr. Fleskens dated 09-29-1981. My assignment is to see if Theunisse fulfills both conditions.

4.1 From the documents, I can see that between parties is agreed and therefore established, that the Manus was delayed for 3 months, from May 1 to August 1, 1980. 4.2 Also from the documents, I can see that the salvage took place on September 23–24, 1979. Those parties could not agree about the salvage reward. That eventually the reward was advised for by Prof. Schadee on May 27, 1981, that a sooner settlement about the reward was made more difficult because of that the State argued that the Owner and not the State was responsible for the reward, and that a great difference of opinion existed about the value of the saved ship.

4.3 In most cases, there is no doubt about who has to pay a salvage reward. Art. 564, LC, state that the owner is responsible for that. In this case, the rare fact was that the owner did not show up, nor did the possible Insurance firm, if there was one. The standpoint from Theunisse was that the State was responsible for his reward because the State had ordered him for the salvage. Prof. Schadee advised that the State had to pay because he assumed the State as the user of the ship during the salvage. Also, he assumed, based on various statements and documents that between the State and Theunisse a salvage agreement was established.

4.4 About the value of the ship, a big difference of opinion existed between Theunisse, f. 200,000-, -and the State, f. 14,000--, for which last amount the State sold the ship. In his binding advice, Prof. Schadee assumed a value from f. 65,000-.

4.5 In my view, one cannot blame the State, considering the doubts about the responsibility for the salvage reward and the value of the ship that the State did not immediately paid Theunisse his salvage claim.

4.6 The report from the National Ombudsman shows however that on February 8 1980, the State was almost convinced to be responsible for the salvage reward, but kept denying this. The National Ombudsman qualified this behavior as improper. In his opinion, this caused disturbance and delay in the handling of the case.

4.7 The Ombudsman was also convinced that the fact that the ship was sold for a price far below the value, have had great influence on the handling of the case by the State, because the State insisted to the standpoint that the reward could not be more in any case then the realized selling price.

4.8 I agree with the Ombudsman in his views. After the preliminary hearings, the State had in reason must have had agreed that she was responsible for the salvage reward.

4.9 Therefore, I conclude that the State is to blame for the delay in the handling of the case.

5.1 The State has argued that, also in the opinion of Theunisse, the delay in the building and completion of the Manus was caused by his insufficient financial means to fulfill his obligations to the bank, and therefore was forced to stop the building. The bank refused more credit.

5.2 I agree with that argument. Obviously, the financial position from Theunisse was bad. He cannot blame the State for that.

5.3 The delay in the completion of the Manus was caused by two circumstances: 1) the delay in the handling of the salvage case, and 2) the bad financial position from Theunisse.

5.4 The chance that a settlement could have had been reached about the salvage reward, if the State had not rejected his responsibility for the reward, was small I think, but not impossible. This was a rare case were more investigation was necessary and this took time. The most important reason for the delay of the Manus was in my opinion the bad financial position of Theunisse. Both reasons for the delay weighing, I conclude that the State is to blame for one-third of the damage.

6.1 In the letter from Mr. Fleskens on September 29, 1981, are six assignments mentioned by Theunisse, who he could not do because of the delay, for a total of f. 157,200-. The State has argued that Theunisse did not prove that he could have earned these claims if the Manus was completed on time.

6.2 I agree with that argument about the claims under c), d), and e).

6.3 About the letter from C. Muller: Theunisse did not prove that he and Muller had an agreement for deployment of the Manus, also outside the immediate surround-

ding waters in the vicinity from Dintelsas. Therefore, he has not proven the claim under a).

6.4 About the claim under b), I can agree with Theunisse. I will therefore establish his loss on this job in reason on f. 30,000-.

6.5 Regarding the claim under f), Theunisse did not deliver any proof, but I agree that the chance that he could have had acquired and done this job is real, and therefore I establish his loss in this one on f. 35,000-.

6.6 From the above mentioned follows that I have established his loss of earnings because of the delay of the completion of the Manus on an amount of f. 65,000-.

6.7 Theunisse has stated that his losses were probably higher than estimated in the letter from Mr. Fleskens. Apart from the fact that he did not prove this, I am limited in my assignment, according the principle agreement, to the mentioned letter from Mr. Fleskens from September 29, 1981.

6.8 The proved loss of earnings of f. 65,000- is not equal to the damage because the costs of earning have to be extracted from that amount. I establish these costs on an amount of f. 5,000-. Therefore, the damage is f. 60,000-.

7.1 Grounded on my establishing's under 5.4 and 6.8; I advise the State to pay to Theunisse one-third from this damage, being the sum of f. 20,000-, for damage done because of the delay in the Mi-Amigo case, for which the State can be blamed.

7.2 I see no grounds for paying legal interests over this amount.

7.3 The costs for my advice I calculate on f. 6,000-. In my opinion, the State has to pay in reason this amount.

Glimmen, March 26, 1988, C . J . H . Brunner



Chapter 15 REACTIONS

NAUTA VAN HAERSOLTE

To: Mr. G. A. Chr. Theunisse, DINTELOORD. Rotterdam, March 31, 1988

Dear Sir,

We received a copy from the binding advice from Prof. Brunner, which is a terrible disappointing advice for me. If only we accepted the offer for a settlement last year! I have confirmed Mr. Wubs according enclosed copy. I have sent also a copy from the advice to Mr. Fleskens. With friendly greetings, Yours truly, P. Blussé van Oud Alblas

After I had received the advice and recovered from the shock, I wrote the following letter to Mr. Blussé van Oud-Alblas:

April 2 1988

Comment from Theunisse on the binding advice from Prof. Brunner, dated March 26, 1988. This advice has forced me to the following reaction: The way of assignment from this advisor AND the content of his advice made me to decide for asking for destroying of this advice. The advisor is going into a number of items with which he had no business in his assignment. He has started to think along two lines, every time he thought this was convenient: The agreement under 1.1, PLUS the real story about what really did happen, but in his thinking he is using incorrect information about the principal case and is drawing incorrect conclusions from them. Now these incorrect facts and conclusions are a part from this advice, I am obliged and entitled to react on them again.

In my reaction, I follow the page and item numbering from the advice, but before I come to that, I first repeat the circumstances here under which this binding advice was agreed up on. The National Ombudsman produces on Feb. 21, 1986 his report about the case. His investigations brought him to the conclusion that the State did act "Improper" in the case. About the damage done, he says: "I do not speak out about the amount of the damage, although also in my opinion the claims from Theunisse are very high, but it must be clear that also after Prof. Schadee had given his attention to it, this damage is real and existing." "The Secretary paid unrightfully no attention to it."

The content of this report did move me to make once more an effort to come to normal terms with the State. I wrote a letter to the Department of Justice with the

question if they see a reason in the verdict from the National Ombudsman to have a meeting with me. The Secretary answers confirmative and a meeting followed on May 27, 1986. In his opening speech, Mr. Cleton from the Department says that indeed Justice is impressed by the report from the Ombudsman and that they are willing to do something about it. Justice is offering f. 50,000-, which I cannot accept. They do not answer my question how they have calculated this amount. Mr. Cleton is answering my question how and why it went like this with: "Things like this can happen in a big bureaucracy like this one here." "I feel lucky that I was not involved in it."

Because my damage is a lot more than this first offer from the State, I cannot accept it and we leave with the assignment for our lawyers to find a formula for a next meeting. But still, I got the feeling that things did improve in my relation with the Justice Department. With Mr. Cleton, a man had entered the picture that took distance from the policy so far from his Department, and with the outspoken opinion that I had a right to a damage payment. Also, I thought that even the States lawyer was more reasonable now. All the creatures that had made this mess were vanished, back in their dungeons, I thought! On June 18, 1987, the State made a second offer, of f. 70,000-, which was still far too low, but still I thought we were on the right track, negotiating to get somewhere, I thought! Meanwhile an agreement was constructed as it is reflected on page 1 from the advice. This agreement was constructed for one purpose only: To find a ground for a damage payment WITHOUT the need to go into the miserable story itself again, like was agreed up on in the second meeting. The last paragraph from this agreement contains the sentence: "Incase parties cannot reach a settlement, a binding advice will be asked from a binding advisor who will be appointed by Mr. Wubs and Mr. Blussé van Oud-Alblas." Because the best offer from the State was still far too low, a binding advice had to follow. Mr. Blussé made a shortlist with three candidates for this job, and asked Mr. Wubs to make a choice. A long time we did not hear anything about it, reason why I sent a telex to the Department and asked them to make up their mind.

On September 5, '87, I received an answer from the Department: "The Secretary is proposing to ask Prof. Brunner as binding advisor." (Letter from Prof. Cleton from September 24, '87). I was surprised by this letter and also a little suspicious, because the task of finding a binding advisor was the exclusive job for both lawyers. (See agreement, sub. 1.1). It is clear that now the SECRETARY found it necessary to interfere in the appointment of the binding advisor, a free choice from the lawyers was made impossible, and by doing this the condition in the last

paragraph from the agreement (sub. 1.1) was not fulfilled. But, now I thought that things were improved between the State and me, I thought it not wise to object about this maneuver. Now, after receiving the binding advice from Prof. Brunner and seen the content, I demand destroying of this advice according Art. 1357, CL, Art. 1358, 2^e, CL, and Art. 1491, CL. As far as necessary, I am accusing the SECRETARY now of being guilty of misusing his position and function for his unhallowed and unnecessary interfering in the appointment of the binding advisor. Grounded on the content, I also demand destroying of the advice for the following reasons.

THE DELIVERY OF EVIDENCE.

The advisor did ignore completely to stay in the improved relationship between parties, he wished to see solid and conclusive proof for every part of my claims, although this solid proof was very hard to get, only because the long time that is passed since, for which fact I am not to blame for but the State. For example, Sub. 6.2: rejecting my claims under c), d), and e), “because of lack of the beginning of proof”, is a mockery of the word just-full, on which his advice must be grounded, (Art. 1375, CL). Only the words REASONABLE and IN REASON from the text of the agreement under sub. 1.1 are showing sufficiently that this text is fit for explaining.

“The advisor shall have to look at which were the intentions from both parties, instead of binding himself to the literally meaning of the other words of the agreement.” (Art. 1379, CL).” This “literally meaning of the other words” has showed many times in the standpoints of both parties and reflected in the Memory of Demand and the Memory of Answer. In the way the binding advisor did spoke out now about “proof to be delivered”, the term REASONABLE should have had been replaced by terms like “watertight, absolute, ironclad, etc”. Although Mr.Wubs was satisfied with the letter from C. Muller during the meeting on December 9, ‘87, as sufficient proof for my relation with Muller at that time, the advisor wished to see the contracts, which contracts he is then explaining wrongfully afterwards. The advisor, doing so, was ignoring the agreements between parties, reached BEFORE the advice.

The advisor doubted if I had an agreement at all with Muller in that time and he cannot find an obligation for Muller to invite me for the job about the pile driver, sunken on the Gent-Terneuzen Channel. The truth is that between springtime 1976 and fall 1982, a continuous relation was established between Muller and me, supported by a brief and simple contract with a yearly updating from the yearly

fixed amount of “goodwill” money for me and an updating each year from the hourly tariffs for Furie, Furie-2, and Manus. The mentioned contract was no more than the expression of our willingness to cooperate together, and not designed to pinpoint down every possible detail. This is a most workable situation with every normal party, except with the Dutch State! The advisor cannot find one valid reason in this contract to have doubts about this example about the sunken pile driver, and therefore now doubts my integrity, which I feel as an insult!

GROUNDINGS FOR THE DAMAGE PAYMENT.

Page 3, sub. 2.2, sub. 2.3 and page 4, sub. 2.4. The considerations put down here are indeed based on nothing else then the agreement under 1.1. But the advisor should have had realized himself WHY this agreement was reached between parties. The reason for it was not at all a simple delay of payment, but the misconduct of the State, like investigated by Internal Affairs and later by the National Ombudsman. From which misconduct extendedly was reported, and by which reports the State was moved to show willingness to pay for the damage caused by this conduct, being it that she first needed a very overwhelming proof for this misconduct! Later on, a formula was found to catch this damage payment in a “payment for delay in payment”, for one reason only, that this was less shameful for the State instead of the real reasons. Literally, Prof. Cleton said during the meeting on May 7 ‘86:

“Let us try Theunisse to forget the smelly story in the past from this and let us try now to find a way out of it.” This under enthusiastic approval from Mr. Wubs, who later, when Mr. Fleskens was memorizing some of the dirty tricks from his predecessor, became very upset and snapped to Mr. Fleskens: “We just agreed that we would not talk about this again!”

The State would also never have diverted out of free will from Art. 1286, C. She would have had simply stick to the Law. In addition, my agreement was necessary for the formulation of the principle agreement, which I gave on October 28, ‘86 in writing and in good thrust. Which thrust is now again violated! For grounding a case of “delay of a payment” on Art. 1286, C, no consent of the receiver of the payment is necessary. The Law is just valid for everybody without anyone’s “consent”! The diversion in my favor from Art. 1286, CL. should have had the advisor put to thinking, and should have had him made to decide on this point to stay into the sphere of the REAL things that happened, which were the REAL basis for a damage payment to me, instead of following the “literally text of the agreement” under 1.1. The advisor surely knew about the real things that

happened: He received also the report from the National Ombudsman. This report was the FIRST and ONLY reason for the State to start to talk with me about a damage payment, and this report did record the “diverse behaviors of diverse civil servants” in the case, and NOT the simple fact of a “solely delay of payment”.

THE REACH OF THE DAMAGE PAYMENT.

Page 4, 3.1. In the agreement under 1.1, “The States declares to do a reasonable damage payment to Theunisse, etc, etc.” In fact is this statement sufficient to pay for the FULL damage. (Art. 1395, CL.). Because, what can be more reasonable then paying for the full damage that is done? As soon as a certain part of the damage is limited or even ignored, like for instance at 3.1 about the additional costs and at 7.2 about the interests, the advice is than ending to be reasonable! It was just the cumulating banks-interest, which caused the drawback in my relation and position with the bank. Art. 1401, CL, speaks about THE DAMAGE and not about A PART OF THE DAMAGE. The Law describes damage as DAMAGE, COSTS AND INTEREST.

CAUSE OF THE DAMAGE AND THE RESPONSIBILITY FOR IT.

Page 6, 4.2 to page 10, 5.4. The considerations from sub. 4.2 to sub. 4.4, about the salvage order, the obligation to pay, and the value of the ship, do have nothing to do with the question put before the advisor about my damage. But now these considerations are a part of the advice and contain a number of incorrect facts, I have to go into them:

The given salvage order: Sergeant W. from the Radio-Room at Dordrecht set me in motion for a grounded ship, the Magdalena, which ship was put under custody from the State, and which salvage order came from the Officer of Justice at Amsterdam on September 23, 1979. I accepted this order after three brief telephone calls in which W. answered my questions.

Question 1. What kind of ship, condition, situation, position?

Answer W.: Radio-transmitter-coaster, grounded, making water, Aardappel-bult-North-Sea.

Question 2. Who are the Owner and/or the Insurance? Answer W.: Both unknown, the ship is impounded by the Justice Department.

Question 3. Who is giving the salvage order? Answer W.: The Officer of Justice at Amsterdam. After that, I accepted the salvage-order, and sailed out. The ship remained under custody of the State during the salvage, the voyage to Willemstad, my work at Willemstad, until the moment it was transferred to the new

owner. Under these circumstances, one cannot have any reasonable doubt what so ever about who is the contractor and who is the debtor in the case!

About the value of the ship: In a very early stage, beginning 1980, the State possessed a report of taxation and valuation, by means of the investigation of Internal Affairs, which report showed clear and simple the SCRAP value of the ship. This was the report from Mr. J. B. Voorwinden from Bureau De Beer at Rotterdam, made on order from Heuvelman Steel BV, the new owner of the ship. This report was describing the ship in terms of scrap weights and a summary of the saleable parts of the ship. Total estimated value by me, f. 200,000-. Mr. J. B. Voorwinden was the only reporter who actually has seen the ship and was onboard. He was onboard for a whole day! Therefore, there was no doubt what so ever about the value of the ship after salvage.

About the thoughts under sub. 4.5, last sentence: The judgment from the advisor, that the State cannot be blamed for being in doubt about the obligation to pay for the salvage, is completely contrary with my point under sub. 4.6, and with sub. 4.8 and also in conflict with the truth: Adjutant Kamp to a number of newspaper reporters, the third day of the salvage:

“At Sunday September 23, we have CHARTERED the salvage ship Furie-2 on a “No Cure-No Pay” basis.” The State knew for sure being the debtor for the salvage reward, already before the preliminary hearings, and made an internal note of it on February 8, 1980: “If it is still possible to insist that no salvage order is given to Theunisse?”

Even before that, on October 24, '79, ONLY ONE MONTH AFTER THE SALVAGE, the States lawyer was letting us know: “That the State can recognize that Theunisse did assist with the salvage.”, and was offering f. 6,000- for a reward, and if not accepted, was offering Arbitration at London! (Letter from Mr. Bouma to Mr. Fleskens). After that, the case was transferred immediately to Mr. Gratama. This lawyer caused all misery that came over me. Therefore, the conclusion under sub 4.9 is much too mild about the misconduct of the State and therefore unjust. Now the advisor is falling back to the history of the case itself, he must do this completely and according to the true facts! In that case he would have had found a series of misbehaviors under which a number of criminal acts! The National Ombudsman speaks about “The sum of behaviors by different servants on different moments of time.” These behaviors cannot lead to another conclusion under sub. 4.9, that now we can speak about “Unrightfully Acts according Art. 1401, CL, Art. 1402, CL and Art. 1403, 1e.”The conclusion from the advisor at the end from sub

5.4, in which he is speaking about only a one-third part of responsibility for the State in the delay, is really placing the world upside down, and a deadly mistake in the conducting of his assignment!

SUBS'. 5.1 & 5.3 & 5.3.

There is no way in which I ever have stated that I had no sufficient means to complete the Manus in the period September '79 to beginning '80. For that project, a tight system of financing was conducted together with the bank, which was sufficient for wages and materials. Even a Credit-advisor from the Head-office from the Rabo-bank at Eindhoven was involved in the conducting of this financing to be sure of a correct ending of the building project. However, neither the bank nor I could foresee the disastrous developments that took place later! A tight system of financing running in fall '79 is something else then a bad financial situation in spring '80, caused by external, not foreseeable stupid acts from the Government! On my own initiative, I have warned the state on more occasions then one that I could not cope with the expenses for long court procedures. In spite of that, the second Lawyer of State, Mr. Gratama, during the preliminary hearings on November 19, '79, roared at me: "Go to Court Mr. Theunisse, and I will keep you busy for the next years to come. I shall fight you to the last resort!"

At September '79, the money for interest and back-payment to the bank was available. The advisor could have had checked this easily with my bank-documents! When the Mi-Amigo case occurred, I had to "temporarily" use this money for paying the costs made for the salvage. These kind of everyday choices are perfectly normal in a small Company. Soon after, additional and unforeseen costs came up; lawyer, expert, traveling, telephone, meetings, and so on. The time spends on all these were therefore lost for other, normal work. Especially the lost time was devastating for my Company, with only one employee at that time, and amounted much in the delay of the completion of the Manus, purely because of the workload in the Mi-Amigo case, like the preliminary hearings, expertise's, meetings with lawyers, correspondence, questioning from Internal Affairs for days on, etc. Still there were no real worries until it became clear, also for the bank that this affair was going to take a very long time. The hearings were held, investigations went on, and the answers on the questions from the Second Chamber did make one fear for the worst, and also did the correspondence with the State. The State was determined to stay on the same wrong standpoints, in spite of knowing internally that she was standing for an impossible and in-defendable case. Of course, that the bank was not at all willing to pick up the bills for the doings of the

State! The bank kept her patience until July 1982, before she placed my Company under custody. Very short before the custody, my credit at the bank was cancelled. If the advisor wished to make his advice so much depending on my financial status. AND SO HE DID, he must have had asked for more and correct information about it. As well as by proof, as also by own investigation. This would have been very simple. He only needed to get in touch with my bank, with my full consent on beforehand!

The conclusion from the advisor under sub 5.3, that one, and the most important, reason for the delay in the completion of the Manus was my bad financial position, is therefore unjust. Because my financial position was only deteriorating AFTER the State took in her unrightfully position in the case, and kept doing this against all reasonable arguments, and against knowing better by her self. Also because the above mentioned is the conclusion from the advisor under sub. 5.4, about the degree in which the State can be blamed for the delay, from only one-third part, and two-thirds for Theunisse, ridiculous and unrightfully. Also wrong and in conflict with the truth, is the conclusion from the advisor under sub. 5.4, about that the Mi-Amigo case was extraordinary and needed more inquiry and investigation. If the State, before the end of 1979 did have had USED the available information INSTEAD OF HOLDING EVERYTHING BACK, we would have had reached an agreement and a settlement in the shortest possible period of time.

THE CONCLUSION IN THE CASE FROM THE BINDING ADVICE FROM PROF. BRUNNER, DATED MARCH 26, 1988 CAN ONLY BE. THAT THIS ADVICE SHALL WILL BE DESTROYED, WITH RESTORING OF THE CASE IN THE CONDITION IN WHICH THE CASE WAS IN, BEFORE THE BINDING ADVICE WAS ASKED FOR. IN ADDITION, THAT PROF. BRUNNER SHALL HAVE TO PAY FOR ALL THE COSTS THAT WERE MADE BY CALLING FOR, AND DURING HIS ADVICE. THEUNISSE IS OFFERING PROOF FOR ALL OF HIS ARGUMENTS, ESPECIALLY BY MEANS OF WITNESSES.

NAUTA VAN HAERSOLTE

To: Mr. G. A. C. Theunisse at DINTELOORD. Rotterdam, April 18, 1988,

Case: Binding advice Prof. Brunner, Mi-Amigo

Dear Sir,

Hereby I am answering on your extended letter from April 2, 1988.

1. Regarding your views about the appointment of Prof. Brunner, I disagree with you. I myself have advised to agree with the proposal to have Prof. Brunner

appointed. He is a first class lawyer, and for many years working on the same office as Mr. Bruininckx in the maritime sector at Rotterdam.

2. Prof. Brunner did behave rather formal about our delivery of proof. He referred to the letter from Mr. Fleskens, conform to the text of the principal agreement, and looked if the claims were reasonable proved and if you therefore had suffered damage. About our proof, he took a rather formal standpoint. He has concluded that the State did delay things. He also concluded that the long time to handle the salvage case is partly compensated by the State in paying the legal interests, but that this delay was not only caused by the doings of the State, but also because of your bad financial position.

3. This verdict was also for me disappointing. Nevertheless, one can only act against such an advice when it is so evidently wrong that the contra party cannot rightfully hold us on it.

4. Also in my opinion, the verdict is disappointing, but there is no possibility that the State is acting unrightfully if she will keep us on it. That is why I have to advise you to take it as it turned out. Maybe you like to talk about it with Mr. Fleskens.

With friendly greetings. Yours truly, P. Blussé van Oud Alblas



Posing for pictures.

Chapter 16 THE AFTERMATH

It was obvious that Mr. Blussé did not see any virtue in going on with the case. Your storyteller asked for a second opinion from a third lawyer, who after studying the most relevant documents gave me a fifty-fifty chance for fighting the verdict. That is not too much and it cost again f. 1,000-. Therefore, I wrote the following letters to the Department of Justice and let it rest...for the time being...

Luckily, your storyteller still had also other work to do. Customers came and went. Small and simple jobs appeared, but also big jobs, with everything at stake. In the time of the last verdict, I had tallied from the start of my Company 437 jobs, finished with good result and therefore finished with an invoice. From this total, 12 jobs I did for a on beforehand fixed price. For four other jobs, I had to go to Court, to be sufficiently paid for. Another four went to a binding advisor. One of them was the Mi-Amigo case. This leaves 417 jobs out of 437, which were negotiated to a reached settlement. This means to the satisfaction of all parties involved. At the end of my career in this work, I finished with a grand 728 jobs. One may therefore assume that I had some experience developed in negotiating in my line of work. This experience however meant nothing and had no value at all in the Mi-Amigo case, because the State was just too stupid and arrogant to negotiate in a normal way. What they call negotiating is nothing but ignoring the facts, rejecting every decent argument and meanwhile sitting with their fat Asses on a pile of money, our money, until one is sick, totally exhausted and or bankrupt, plus preferably dead. I can only think of a few possibilities why they act as they did:

1) Loss of face: “If we pay this Theunisse his salvage reward, we will look like idiots, with all this action around this ship; the salvage, the sale, this stupid Adjutant, this idiot of an Officer of Justice, this retarded moron of a Ships Expert, and so on.” “So, let us act as blunt as possible, maybe he will back off.” Mmm, nice try, but they need my cooperation for such a thought, fat chance for that! Therefore, this turned out to be a no choice, considering what you are reading now.

2) Repercussions for other cases, in which Civilians are freely mangled by the State. “If we let this happen, every other civilian will be all over us with damage claims.” See no choice under 1). I hope to have warned you about the mentality of the State. You know the biggest lie? I'm from the Government, I'm here to help you.

3) They are just too plain stupid to do things any better. This last possibility is the most appealing for me: They just mess around a little every day, with no idea and no care what so ever. Anybody who knows better, tell me.

Salvage & Towing Company Theunisse

To the Secretary of Justice, P.o. box 20301, 2500 EH, The Hague

April 12, 1988. Subject: binding advice. Case: Mi-Amigo.

Excellence,

Meanwhile I received the "binding advice" from Prof. Brunner, dated March 26, 1988.

I do not agree with the content of this advice. I do not consider myself bound to this advice. You will hear again from me. Yours truly, G. Theunisse

Copy: Mr. Wubs and Mr. Blussé van Oud-Alblas.

Salvage & Towing Company Theunisse

To the Secretary of Justice, P.o. box 20301, 2500 EH The Hague

Dinteloord, May 20, 1988, Subject: Theunisse / State (Mi-Amigo)

Excellence,

Dated May 17, 1988, I received by bank an amount of money, f. 20,000-, via my lawyer and coming from the Department of Justice. Referring to my letter from April 12, 1988, I convey to you that I regard this payment of f. 20,000-, only as a down payment from you to me. Yours truly, G. Theunisse

Pels Rijcken & Droogleever Fortuijn, States lawyer

To Mr. P. Blussé van Oud Alblas, ROTTERDAM

Date: June 14, 1988 Case: State / Theunisse

Amice,

Enclosed you find a copy of a letter, dated May 20, 1988, from your client Theunisse, which I received for answering from the Department of Justice. I like to request you, to point out to your client that with the binding advice from Prof. Brunner the case is definitely closed. Therefore is the payment not a down payment, but the last and final payment in the case. Greetings, D. Wubs



Character impression of the States' Lawyer.

Chapter 18 SOME MORE DETAILS

Would it be possible that the dilemma for the State was the following? On the ship was resting custody, put on by the State. According to the Law, the State was during the custody obliged to take care for the ship. There are only two possibilities:

1) The State was keeping the custody on the ship and was doing so, responsible for it. -Like indeed did happen-. In this responsibility; the obligation to take good care according the Law, does not fit "To abandon the ship and leave it to the sea."

Even not so if, in the view of the State, the costs of salvage would have been higher then the "(rest)-value". The (rest)-value is the case of the Owner, NOT the case of the State.

Because the State kept the ship under custody, she was obliged to have it saved.

2) Or the State had lifted the custody, -which did NOT happen-: immediately after carrying out her tasks in Law enforcement: "About the suspected violations of the "Telegraph & Telephone Law". Also, therefore had taken away, or destroy all

goods that had something to do with the suspected violations of the Law. like indeed DID happen. Then, just leaving the ship on the sandbank.

In this case, (2) the ship could have had left behind, for the risks and costs of the Owner.

He could then have had it saved or not, to his own choice. If the Owner would not show up for his ship, then the State could have had it placed under the “Wrecks-Law”, in which case the State could have had tried, after the removal of the wreck, to find the Owner and have let him pay for the (additional) costs, or not.

However, the States-Servants did a little from each of the two possibilities, which were in gross conflict with each other, and long before the whole case was brought to trial!

- 1) Keeping the ship under custody.
- 2) Destroying the transmitter.
- 3) Saving the ship.
- 4) Selling the ship, and have it wrecked.

So, now. After the State had the ship being saved, under custody, and gave it almost for free away to a third party: AND afterwards, AT THE DEPARTMENT OF JUSTICE, they realized the consequences from this action, they had to fix it some way or another - by all means and methods - to make the saved-value of the ship equal to the sales-price! Every crazy action they could think of - this whole book - they throw into it to keep me away from a salvage reward based on the real value of the ship. The real value of the ship - that they had given away - was like a long bad dream, threatening to become true every moment. For this purpose and in the dragging on case, they committed a long list of criminal and or unrightfully acts and behavior: A few examples:

Violating a contract, several times,

Violating the Rules and Laws about Impounding and Custody,

Using devious maneuvers and made up information, lots of times,

Theft,

Receiving bribe money and presents,

Falsifying official documents under Oath,

Lying under Oath,

Ignoring a Court order, several times,

Intimidation and threatening of witnesses, several times,

Obstruction of the Law, many times committed,

Threatening, several times,

Ignoring solid proof, evidence, and facts.

Hiding evidence.

Slander,

Bribing attempts, several times committed,

Under false pretensions, proposing and commencing of arbitrations, before and with non-independent advisors.

And so on, and all this within the JUSTICE organization.

They called this handful of stupid acts “defense”.

Moreover, all of this because the State thought the following was more important: Suppose that in the future prosecution of the “Seven measly misdemeanors against the Telegraph & Telephone Law”, (quote from O.O.J. Mr. Pieters), which were committed ONBOARD of the ship, not WITH he ship; the Judge would order in his verdict to give the ship back to the Owner! Then what? Ouch, Ouch!

From a “radio-pirate” on the shore, like are caught almost every day, one is not selling and demolishing his house! His radio equipment is confiscated and he is sentenced only to pay a fine. In a verdict about “seven measly misdemeanors”, a Judge is not giving easily an additional punishment like the confiscating of a nearly 1000 Tons seagoing ship.

That would be some additional punishment! Like the National Ombudsman is saying in the next beautiful sentence: “Were it here handles about a in principal precious good, being a seagoing ship.”

According to the Law, Mr. Pieters was the Officer of Justice whose task it was to bring the “measly misdemeanors” before the Court at Amsterdam. For this purpose he needed to show the Court, “The Taxation and Valuation Report” from the Ships Service, about the, “WRECK of the former radio-ship Magdalena/Mi-Amigo”.

He did not need, in no way at all, proof of the real value of the ship. Now the ship was vanished into thin air! By his own actions! Moreover, by no means he didn't appreciate my efforts to get this information on the table, as a basis for my salvage reward. For me only necessary because of the stupid attitude of the State. On the other hand, did they dismiss the whole case about the ‘Radio Piracy’ because of this whole salvage case? Does anybody know how this did end anyway? Maybe I should go after this a next time.

THE VALUE OF A SHIP IS THE VALUE THAT THE OWNER SAYS IT IS:

For example with his Papers of Ownership, Bill of Sale, Insurance papers, Invoices for reconstruction and repairs done, fuel, stores, equipment, etc, etc. The value of the ship after the salvage would have had been for the Owner: HIS value for HIS PROPERTY. Minus the grounding damage, (which is of no concern to the State), minus the value of the confiscated and/or destroyed radio equipment, (The risk for the Owner of an illegal Broadcast-station), and minus the costs of the salvage, (which the State of course could then bring on his account). BUT NEVER the yoking-price, the State received. After stealing the ship away from him - his property -! INDEED, the State has stolen the ship long before the Judge could have had Ruled about the “seven misdemeanors against the Telegraph & Telephone Law”

Please pay attention here: The State could only have had put on the Owners account, the REAL costs of salvage, paid to me. Not the completely insane costs she made to keep me away from my salvage reward! Therefore, there comes the Owner: “May I have my ship back please?” Ouch, Ouch! Like a friend of me used to say. He was a lawyer:

“We first beat the shit out of them, and then we turn being friendly again, maybe.” Was this endless exercise from the Government in “defending” against my salvage reward only a very costly tactic of delaying things to survive until this case of the “seven measly misdemeanors” was passed before Court, and preferably already forgotten? I think everything is pointing in that direction. Was this dilemma worth it to slaughter your storyteller, the willing Contractor of the Dutch State? It looks like it.

In the opinion of your storyteller, somewhere around here one will find the point at which the desperate policy of the State was revolving around. The bits and pieces from the irrational behavior from the Bureaucracy of the State and the weird maneuvers from the States lawyer are falling neatly into place then.

Repeatedly, the States-Lawyer was urgently proposing me that I should transfer my rights, on the ship and/or the Owner of the ship, which rights I earned by the salvage, to the State in order to receive some advanced payment for my work done. In addition, the States-Lawyer was claiming that I in fact did not save the ship for the State but for the Owner. However, I never had the pleasure of meeting the Owner of the ship, not at any occasion or for any reason! Except for that, this theory of the States-Lawyer was totally wrong: I did my job based on, first,

a request from the State, second, based on a negotiated agreement with the State, from which negotiated agreement; third, the salvage-ORDER was the consequence. Therefore was it for me also unnecessary to seek contact with the owner of the ship before or after the job. For exactly the same reason was it for me also totally unnecessary to place my demand for salvage-remuneration on the ship, contrary the false idea of Prof. Schadee. I had received a salvage-ORDER from the State, and for obeying and fulfilling by me, THIS ORDER, the State had to pay me!

I even had in fact nothing to concern myself about the value of the ship after the salvage was completed, no matter how high or low this value was. Fact is that I accepted a 'No Cure-No Pay based job from the State. Fact is also that I carried out this job with full success and exactly as expected by the State. The formulation 'NO CURE-NO PAY' means exactly what it is saying: NO RESULT-NO PAYMENT. But this formulation is saying nothing about which payment or on which grounds and principles this payment shall will be based upon! Indeed, did I have had well and fully RESULT, after the carried out ORDER from the State. That is why I'm still not be able to comprehend how the State could be so blunt, ignorant and stupid, not to pay me directly and at once, my specified and fully explained bill of expenses. I provided the State with an extended calculation of these costs, in two ways:

- 1) One calculation was based on my 'out of pocket' expenses plus a fully explained raise on this figure, the raise based on the extraordinary circumstances for me of this job.
- 2) The second calculation was based on the 'saved value' of the ship.

The State now did not have the decency or moral awareness to comprehend that she was obliged to pay me at least and at once these costs according the calculation under 1). Especially after she had managed to let the ship vanish from the face of the earth; based on the value from, a payment COULD have had followed incase it did NOT have had vanished! AFTER the State had the ship taken away, violating every rule in the book, she started to bullshit about the value from it!

On the contrary: If I had agreed with the States-Lawyer and had transferred my (salvers) rights, 'so called' on the ship and/or the Owner, to the State, I could receive an insignificant advance payment from the State. Except for the fact that this proposed advance payment was far too low, an entirely other matter was lurking behind this ridiculous proposal from the State! Incase I had given in on the conditions of this advance-payment, and indeed had transferred my salvers-rights

to the State, then the State would have had accomplished a far better and stronger position in an entirely other matter. Being a case that she feared much more than this insignificant salvage operation. Namely, the case of the ‘Seven measly misdemeanors against the Telegraph & Telephone Law’. The State indeed feared with great fear that the Judge in that case could indeed most probably order the State to give the ship back to the Owner. But, but, this could not be done. The ship was not there any more! It was in the Ships-heaven!

If she now could wrap up this salvage case with me first, first to start with her ‘good willingness’ for a advance payment to me, and of course second followed by completing this little deal with me under –Final Payment and Transferred Rights-, of course based on these stupid little amounts of money she was proposing all the time. Then she would have had it made against the Owner of the ship, the moment after the verdict from the Judge he was demanding his ship back based on HIS, the real value of the ship. The State would have had a bunch of papers, waving into the nose of the Judge, saying:

“Please look here Mister Judge, Sir: Here we have our ‘amicable’ agreement with the salver. We have paid the salver based on these figures and values. Out from the good of his heart, the salver transferred his rights on the ship and on this gentleman Owner here to the State. And now, if this gentleman will not shut up very quickly, we will present him after all with a few stiff bills to pay, for all the work we did for this damned ship of his.” The Owner: very probably, very silently out of the backdoor...

Alas for the State: In this case, I never transferred anything at any time to the State. In addition, at no occasion, I accepted any payment, or proposed payment, from the State for ‘Final Payment’. This for the simple reason, that no payment, or proposal for a payment, from the State, was ever even remotely sufficient to pay me ‘finally’.

However, then again, why drawing so much attention with their silly opposition against me? The one and only thing I wished for was being paid for my work, nothing else. They could have had done so in all peace and quiet, and I would have had cooperated in that. This also was what I was proposing all the time, and every time in meetings with these jerks of the Department, Mr. Tazelaar, Mr. Bos and the Secretary, Mr. J. de Ruiter:

“Gentlemen, I am only present here for collecting my money.” “All the rest: You find it out yourself, it’s your business, not my.”

During my many visit's with these meatheads on the Department of Justice, urged by my very low impression of their mental capabilities and their moral standards; on one occasion I told them as follows. "If you guys can do me this little favor? All of you go to the closest State Prison in Scheveningen very nearby here. And free all the guys over there out of their little rooms, and let them walk towards this building, and let them take over your seats and tasks here, and you take their places over there: Do you know that not a single damn thing will change in this Country!"

In retrospect, I gravely regret this remark of me, at that time. It was a serious underestimation of the qualities from the people over there, present in the little rooms of the State Prison...

That is why I know for sure, that between Prof. Schadee and the State, BEFORE the meeting I have had with the Secretary; it went on something like this: "Ah Mr. Schadee, This is the Secretay speaking. How are you today? Good, fine, fine:

By the way, now I have you online, we are involved here in a small and insignificant case about the salvage of a certain ship, but this case is slowly getting out of hand in a rather gigantic way.

Oh, you already read about it in the Newspapers.

Yes, sure, yes, that is the little thing to I am referring.

Yes, a lot of fuss, with all these dumb asses of civil servants, and me, yoking around with these silly Questions from the second Chamber, and all that crap.

Maybe the next thing will be that they call me before the Chamber for explaining, that would be the bloody limit. Yes, yes, Haha!

Nowadays, you have to do almost everything by yourself.

If you turn your back for a second, they make a mess of things, you won't believe.

By the way, do you see any possibility to end this little thing for us in an acceptable manner?

I mean, it maybe needs a little tax money to spend.

I guess we cannot avoid that any longer anyway.

But if you could bypass the mess they made on our side, I would greatly appreciate that.

Well, I mean all this messing around; you know...the salvage order, the sale of this damned ship, and everything under custody, and well... You know.

Yes, Yes Sir, I know, it was a hell of a stupid thing to do, but it happened okay?

What can we do about it?

That is the question now!

No Sir, I am not yelling at you, I would not dare to, sorry for that, but...

Ha! Do you think so?

That would be very nice, thank you very much in advance.

Yes, yes, sure, I will meet this Theunisse character for some small talk, in which I propose you to be the Binding Advisor, after which you will do your little number, and we will leave the rest to you. I appreciate this very much. Won't forget it, thanks again.

Have a nice day Sir"

About this Adjutant Kamp, in that time group-commander of the State-Water-Police from the Group-Willemstad, mentioned many times before, and who referred several times to, "The nice and friendly relation between the State-Police and Theunisse", the following. I cannot avoid going into this because very decent and good willing people from the Police Force and others are also involved in this, and it's not allowed that you develop wrong thoughts about them. What about this "nice and friendly relation" and what was Mr. Kamp's place in it?

Your storyteller started his little Company in spring 1974 at Dintelsas, a small port on the borders of the large River Volkerak. During the first years, multiple contacts developed between the State-Police, Servants from Water & Traffic and the like and me. Perfectly normal of course, because one meets each other every time something happens on the waters. If everything works out all right, one starts to see one and other first as acquaintances, later as colleagues, and some of them even as friends. And of course, one is helping out one and other some times if necessary. I also sometimes pulled one of their boats off, from a sandbank, or out of the rocks of a dam. Or I towed another one in without fuel, if they forgot to look on time at the fuel gauge. Sometimes we were hammering out a few bends and bruises if the mooring was a little to enthusiastic. Or some welding was needed, or they found at my place a nice little winch, they could use on the patrol boat for hoisting their dingy, and so on. This was also a lot easier for them, instead of filling in a pile of forms every time for every stupid little thing. They on their turn were never too lazy for helping me out with heavy pump hoses or long towing ropes. Then they put on their overalls and we started working together. And this is how it should be.

Also it happened regularly that they knew before me, because of their continuous duty, about a ship in trouble and in need of assistance, or more serious,

salvage. In the direct interest of such a ship, they called me then, or another salver, depending on the distance, and we received from them information about the situation of such a ship. Most times, after that, one could get in direct contact with the ship and agreements were made. These were always ships from the private sector, and we finished our business after the assistance or salvage with the interested parties, like Owner, Insurance, Cargo, etc. The Crews from the patrol boats did not have anything to do with this; their task was ended at the moment they had established the contact between the ship and us. And this is how it should be.

This cooperation remained clear and spotless clean. If I was sailing in the dark, with only one navigation light working, I got a ticket; 100 yards from home in the port entrance. In addition, when I was towing a double tow with only one towing sign on, I got another ticket. You can check these things out 'The Hague', if you like! This cooperation was only for the benefit and safety of the Shipping sector as a whole. And this is how it should be.

From beginning 1974, until September 23, 1979 however, I have only met Mr. Kamp two times. The first time, Mr. Kamp came to my place to support a Detective from the Radio-Control-Service from PTT. This for him, to try to collect a ticket, yet another one, of f. 40- for an alleged misuse by me, from the radio frequencies, which I had refused to pay until then. The RCS person had called in the help from Mr. Kamp. After Mr. Kamp had lectured me very seriously, I have paid the ticket, protesting loudly. Is this how it should be also?

At my second meeting with Mr. Kamp, he came to my place with the question if I was willing to give as a present, a mobile pump for the Belgian Mission Community, in which Kamp had a function. They were in need of such a pump for the Community ships. Thinking about my blackened conscience and maybe a little about the good cause, I gave away a brand-new pump of close to f. 2,000-. Some time after, I received a neat thank-you letter from a certain Reverend Lucassen.

Later on, I have not met Mr. Kamp, but experienced him in the next event: As you all know, it is custom that around Christmas time/end of year, little presents are given away, also in the business sector a wide spread custom, and were they are called relation gifts. So, after another year of pleasant and cooperative working together with the Police and Locks Department people, and because we could close that year with black figures, I decided to send some bottles of wine and such stuff to their respective offices. Sadly, Mr. Kamp got a smell of this. Until then, I did

not know that this was something; Kamp must not get a smell from! Well, the little package was delivered on the group-office where Kamp immediately confiscated it, and gave it away on his turn to a local Old Folks Home. Mr. Kamp called me, and again was lecturing me seriously: About, how he could not allow having his employees taking presents from the business sector, "Because of their independence", etc, etc. The Crews from the patrol boats were a little embarrassed about it; they were a little ashamed about their commander. With the Old folks in the Home, everything worked out fine. I got a little worried about it, because in the package were also a few bottles of fine brandy. The people of the Locks and their management reacted normal, they were allowed, of course, to keep and enjoy it, and they liked it a lot. Repeatedly for the next 20 years in a row.

This same Mr. Kamp, Group-commander, allowed him self to treat his employees as follows: When the Magdalena, Mi-Amigo, got grounded on the coast of Goeree, and the Crew was arrested, the ship had to be guarded the following night by people from his group at Willemstad. These people had to stay on duty all night. To have some support for their bodily functions they went to a Cafeteria to buy a few lunches. Costs in total, something like 20 guilders, they received an invoice. When they, later at the office went to administration to check in their costs for food and transport, Kamp started an investigation and found out that they have had their little lunch eaten at the lighthouse of Westhoofd, where they could keep an eye on the Magdalena. According to Kamp's judgment, this food they have had to pay for by themselves because "Only costs of food are repaid, if this food is consumed in a therefore appropriate establishment."

This Adjutant was therefore not a very special person for me, on and after September 23, 1979. After two meetings and two phone calls in a 5-year period, this is also not possible. Nevertheless, Adjutant Kamp was indeed a person for me, who was representing the Law, and the State. However, this was also the case for me –in that time, not any more- about every first day started Policeman/woman.

This Mr. Kamp became my temporary employer on that unholy day, September 23, 1979.

This man needed for his "shining ending of my career", like he expressed himself, God forbid, to his boat-personnel; a slave, a foot wipe, to realize his plans with the ship; who, when the job was done and his "shining ending" would have become a fact of life; would crawl back in his hole near the garbage cans.

This man thought it also perfectly normal that he started to parasite on my good relationship with his group, during his efforts to worm himself out of trouble in the investigation from Internal Affairs:

“In view of the nice and friendly relation with Theunisse, one must not see this (salvage) as a business agreement.”

“We were convinced that the costs of the salvage, carried out by Theunisse, could be arranged for to the satisfaction of Justice. This, considering the pleasant relations with Theunisse.”

“A sure and clear willingness to help from Theunisse, without a financial obligation in return.”

“As I just stated, I did not give a salvage order. I mean with this, an order in a business sense. Theunisse came more often to help, without in return a financial obligation.”

“Like I said before, the term “No Cure-No Pay” is a 100 % business deal, but in view of the relation between Theunisse and the Police, this was not business like meant by me.”

But Kamp said also:

“I assumed, and still assume, that Mr. Pieters knew and still knows the business agreement, “No Cure-No Pay”.”

About his transfer of the command of the salvage to me, Kamp said “For which special purpose I transferred the responsibility to Theunisse, in fact I do not know.”

Again, in danger of boring you to death: To the Press, Kamp stated on the 3^e day of the salvage:

“Sunday, September 23, 1979, we have chartered the salvage ship Furie-2 on a No cure-No Pay basis.”



Mr. Kamp, left.

These were in fact the relations between the Government Servants and your storyteller, nothing special, just normal, and socially good behavior. When now Justice, I call everything Justice, from the lowly Adjutant to the Secretary, had started to make some serious mistakes in the case; and I was opposing this rather strong and noisy, the top brass at Dordrecht and The Hague, started to look with suspicious eyes to our, until then, good relation. First, they tried to frighten me with the anonymous message that I had to quit fast now with making the Police's lives miserable, because they otherwise would put me out of business, by arranging that I would no longer receive any more work from the Police. Until then, I did not know that I was receiving work from the Police. Ships that stumble into trouble during a voyage and become in need of help from outside do not do that on request from the Police. It only just happens to them! On the Department, later on, when I was still not really quiet, a directive was conducted:

“That between the State-Water-Police and Theunisse,
From now on, there will be no more contacts what so ever.”

Your storyteller did read the notes about this directive. This kind of policy cannot work.

They, the Police, kept on roaming the waters and so did your storyteller. So came the day, when again I received another order from the Police. This time, it was a straight order to get my ass in motion, not preceded by a request. And it was also perfectly just-fully given under the circumstances.

On a dark and rainy evening in fall, a motor cruiser, navigating on the Hollandsdiep River, collided with a loaded motor barge of 1400 tons. The cruiser

suddenly and unexpectedly was crossing the fairway in an almost straight angle and crossed the bow from the ship. A collision took place. The cruiser was hanging across the bow for a few seconds, and one occupant could save himself, or be saved. The second occupant, the Owner, went down with his boat, into the 45 feet of water. Full alert was given, and I received the order from the Police at Willemstad to sail with utmost power to the scene, with divers, because it was possible that the Owner was in his boat, maybe still alive in an air-bubble. Such things often happened before. Arriving on scene, we first had to find the wreck by echo sounder. With luck, we located it very quickly and the diver went down, coming back soon after with the Owner, who was alas already dead.

It showed that he had suffered a very severe head injury, during the collision, and probably did not even notice the sinking anymore. After the deceased was transported to the shore, we made preparations for lifting the wreck. It went down in a very busy traffic lane and had to be removed as soon as possible. There is lesser traffic in the night, so we might as well get on with it. In the following morning, we were back on the station with the badly damaged cruiser. A few days later, we made arrangements with the Insurance from the cruiser, that we would take over the wreck as a partly payment for the salvage job, after for obvious reasons, the relatives from the deceased Owner had abandon it. Short after, we could sell the damaged cruiser and, together with the additional payment from the Insurance, I got remunerated well enough for the costs of this action.

However, there was still open this given rescue order from the Police at Willemstad, noted in their logbooks and in the various reports from the accident. A once given order must also be ended at one time, has to be closed after carrying out. In that time: 1982-1983.

The Mi-Amigo story was still "in full bloom" by the way. Still is, as you can read now!

I decided to write a short report plus a modest invoice for covering the costs, and mailed this to the Police at Willemstad. The bottom line of the invoice contained an amount of f.1- net, and f.1.18 VAT included. Your storyteller thought this being sufficient because he got already sufficiently paid in the transaction with the wreck.

The Police Institutions were shaking again on their foundations, after receiving this invoice. Now it was held that Theunisse was trying to "manipulate" the Police. Adjutant Verveer, who replaced Mr. Kamp as Group-Commander at Willemstad, went on, speeding to Dordrecht, and served my invoice (f.1.18) to Major Doornheim, who meanwhile replaced the Districts-Commander Colonel

Mensert-Spaanderman. Major Doornheim called me by telephone and asked politely for a meeting at my place about the invoice. Of course, this was no problem and short after, Major Doornheim arrived with my invoice. Like one unwillingly starts to speak to a child about some subject that is far too complicated for the youngster; I slowly and clearly explained to the Major about the invoice: I showed him the transaction papers about my deal with the Insurance and the sale of the wreck, and told him that it was all right like this. That I did not necessarily need also the full payment from the Police for my action, not even when I was fully entitled to have that too. It took a while, but suddenly the Major was grasping the philosophy. "You are just trying to do your business in a decent way; it was no trap at all!" "Sir, this is so good of you!" Light hearted and cheerful, the Major tiptoed back to Dordrecht, waved out by us, feeling a little sorry for him. Later, I heard that my invoice was framed in, hanging on the wall above his desk...

Now I can tell you this: They are so stupid and ignorant, it is just sad. Living in a totally sickened system of bureaucracy, day in and day out doing nothing but sliming upwards and ass kicking downwards, lying their heads off in between, they completely lost track how about people can live and communicate together in a more normal and decent manner. They just assume that everybody is equal to themselves. Hereafter, another opportunity will come soon in which the lying, cheating, envy, slander and stupid bureaucracy, with which they tried in my case to mess up the normal working relationship with the Police, and kept me running in vain for years after my money, will end up in another fatal and endless horror, and sure will make another victim. Nevertheless, I am sure that also then, they will find a way to steer clear themselves completely from it. Do I sound a little bitter here, you say? Well, right you are!

After the latest binding advice, a period of silence entered the case. I was on tranquilizer pills too often to be good, and especially in my line of work, this can be dangerous, also for other people. I was sick from it and had to let go. This is not the same as having peace with it. Having peace with such a thing is not possible. Not for me, for nobody I guess.

After a few more years of hard labor, a moment in time came, in which two events met. 1) My work became too hard for me, working day and night to cover for the losses; I was about total loss physically. 2) With all my slavery, I had saved, above my total debts on the bank, a little amount of money, after having sold the

Company, to soon but inevitable. Now it was high time to move out, and to take a surviving route. Your storyteller decided to become “Civilian Disobeying”. That’s not allowed! I know that! Don’t you start lecturing me now please! For one time, let me do something on my turn, which is not allowed. Your storyteller sailed into the great wide world, and wrote at the same time the following letter to the I.R.S. people, at their Office at Roosendaal. (See App. 24)

Some more pleasant and relaxed years followed, and slowly the feelings of anger and revenge vanished. Unrealistically, I know, I know, I was silently hoping that this maybe could be the end of it. That at last, “they” were thinking a little like me, and thought I had found an elegant solution for the problem. In fact, I was just only collecting some of the money offered to me by this moron Kristallijn, a long time ago. No way! Just read on...

Embassy of the Kingdom of the Netherlands

Avenida del Comandante Franco 32, Madrid, Spain.

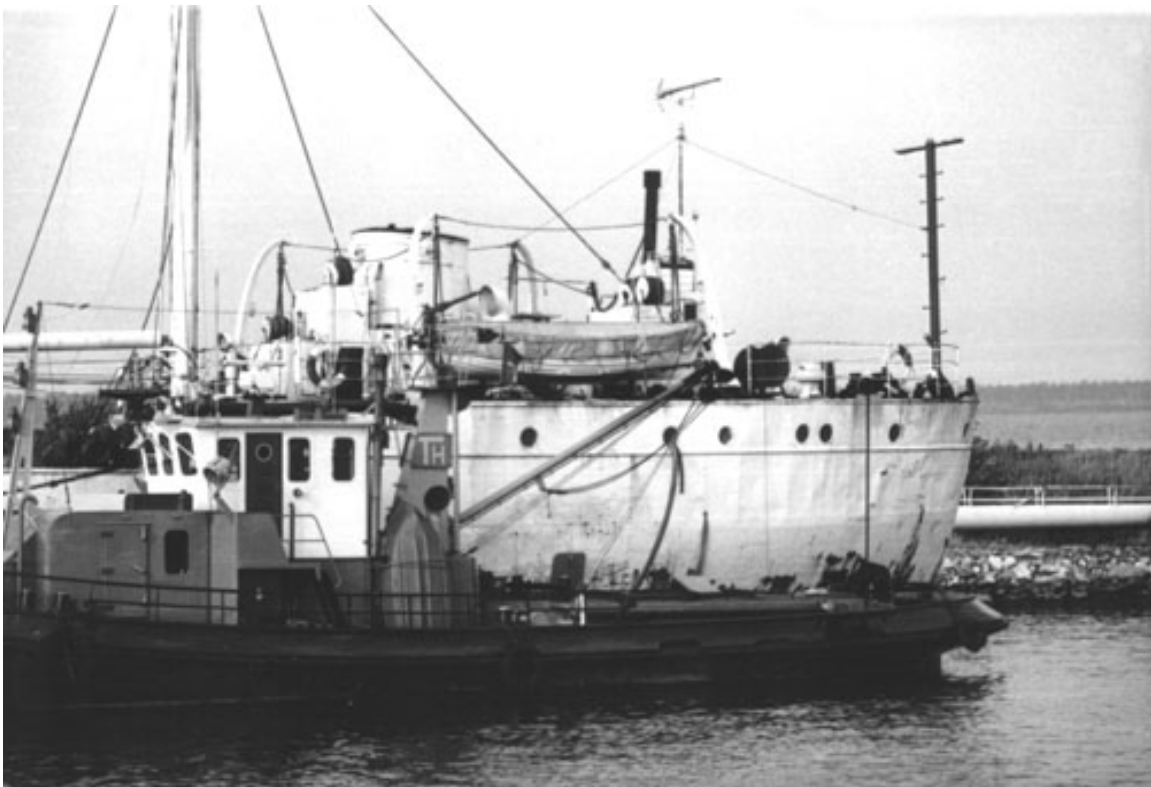
To Mr. G. A. C. THEUNISSE, Club Nautico, Apd. de Correos 57, 03180 TORREVIEJA 28016, Date: November 16, 2000, Subject: Application Passport, Cc. Consulate Alicante

Dear Sir,

Referring to your application for a new passport at the Consulate of Alicante, I convey to you that at the moment, it is not possible to offer you a passport because on request of the I.R.S at Roosendaal, your are noted into the signaling list, because of a taxes debt to the amount of F. 1,125,142.-. I advise you to get in contact with the mentioned institution. The telephone number is 0165-52.25.09. The case is handled by Mr. van Dam, and your case number is 066434713. There is a possibility to hold on your application for a passport for two months. If you wish to use this possibility, you will have to tell this within two weeks to the Consulate. In this period, you can arrange for payment with the I.R.S. With friendly greetings, J. C. N. Bak, Substitute head of the Consular Department.



The I. R. S: We can't be any nicer...



Finishing up: last pump out of the engine-room.

Chapter 19 RECAPITULATION

In principle, this is (was) a simple and straightforward case. An order is given to a person, the contractor, to carry out certain works under in advance known certain conditions. The contractor is carrying out completely and successfully the works under the known conditions. This creates a right for payment of an amount of money, to be established by simple calculation of costs, wages, and remuneration; to pay for by the ordering party. The right for a remuneration follows out of the quality in which the works were carried out, and after the results are according to the wishes of the ordering party. The carried out order and the results after completion are the basis on which the contractor may regard his claim for payment from the other party, regardless of the eventual additional costs, which can occur later on because of acts of the other party. The (positive) end result for the efforts from the contractor in the fulfillment from the order must remain untouched, also after every thinkable defense to avoid payment from the ordering party, especially and namely if the defense is unrightfully and carried out with unlawful means. Damages and costs, resulting from this defense are to be paid back to the contractor on top of the principle sum.

According to the Dutch Law: Damage caused like in this case is not: “Damage because of the solely delay of a payment”, but, “Damage caused by unrightfully acts”.

The State and only the State was responsible for the size this case is grown to, for the long time it took, and therefore also for the large amount of costs and damage. The State gave an order to carry out certain works under certain conditions. The order was carried out completely and successfully. Even already during the carrying out of the works, and for a years long period after the works were carried out, the State decided to frustrate and diminish as much as possible the rights of the contractor, your storyteller.

The State was defending herself against the claim from the contractor in a way that was against every rule of Law and decency. In a way, that was “improper” according the Nat. Ombudsman. The State was also defending herself, while she knew that her defense was impossible and also unnecessary in this way: With the to her available means of gathering information, she knew in a very early stage about the real facts and circumstances, which did not give her any grounds, what

so ever for this defense. The State used at many times several kinds of unlawful means for her defense. This made her defense unlawful and unrightfully, not only “improper”.

Because of these unlawful and unrightfully acts, your storyteller suffered large costs and damages, baring on him in person, and on his Company, which costs and damages were much higher then the principle claim; let alone that there could be any possible remuneration left; for which he earned a right by carrying out the order completely and with full success. At a moment, under political pressure, and unwillingly, the State offered arbitration. This arbitration deteriorated into a farce, even already during the preparations for it, because the State did not change her policy: Wich was defense and at all costs. Because of this policy, your storyteller suffered additional costs and damages. The binding advice, resulting from the arbitration, was therefore not acceptable and invalid. The State was notified in writing about this, my standpoint.

Your storyteller started a procedure before the National Ombudsman against the State. Also before and during this procedure, the State was trying everything, including threats and intimidations to continue her defense. A “raid” was necessary, carried out by employees from the office of the Nat. Ombudsman, on the archives of the Department of Justice, to get the dossiers of the case in hand “not cleaned”.

On a moment, because of the report of the Nat. Ombudsman, again a binding advice was asked, after my efforts, to settle the matter in an amicable way, were turned down by the State. Again this arbitration came out on virtually nothing, after the disprovable appointment of the binding advisor under doubtful circumstances, and because the State was continuing her rigid, harsh and indecent policy. Also about this arbitration, your storyteller wrote the State, not to consider himself bound to this advice, and considered it also invalid.

The State as chosen willingly and deliberately for a tactic of a total and exhausting war, and this war, she won. Your storyteller did not have had any possibilities left, not financial, nor physical, to continue to fight this war. Pressed by these circumstances, for me, the moment was imminent to go into a surviving tactic.

It is reasonable for a victim of unlawful acts to try to limit as much as possible with all reasonable means, the damage posed upon his existence, and to try to

compensate as much as reasonable possible for this damage. From this, costs occur and costs must be made. In this case, it would be unreasonable if the State would not compensate for these costs. In that time, the lawyers of your storyteller calculated the damage to an amount of f. 280,000-. The tariff's and the number of hours, which the lawyers brought to the account of your storyteller that time, are not unreasonable and amounted f.170,000- for the period 1979-1988. From the first figure, f. 20,000- was repaid by the State, and from the second figure f. 40,000-. One has to consider here, the large amount of legal assistance from 1979 against a ruded and unforgiving defending State. In which long period your storyteller had to try to gather as much information as possible from the State or other institutions, and also to gather as much proof as possible about the cause of, and relation between the unlawful acts, and the damage done. The cause of the damage and costs for legal assistance in this case is the result of the acts and attitude of the State. It was reasonable that your storyteller wished this legal assistance and made these costs, as it is reasonable that now the State shall compensate all of these costs.

Now the State was acting wrongfully for a long period of time, it is just-fully in approaching the damage that is done with a generous view towards your storyteller: As well in answering the question how, without the unrightfully acts from the State, his life and Company (could) have had been developed, as also in restoring the immaterial damage.

About the immaterial damage, your storyteller is adding, that a generous payment is just full now the State did damage seriously his interests and life, and was resisting against restoring of the damage for many years. The immaterial damage was never compensated. Your storyteller is now claiming the highest possible amount, according to the Dutch Law.

A small Company, still in the proces of building up and investments in progress, is a delicate and vulnerable unit. On the one-person management are resting all tasks and responsibilities for the Company. Tasks like the actually carrying out of the works from which the means for existing must be acquired. Planning and carrying out of investments and improvements. The equipment maintenance. The administration and bookkeeping, etc. With that, carrying the full responsibility for the unit: Personnel and other cooperators. Financial management. The Creditors and Debtors. The bank, etc. Damage done to such a unit cannot be made undone, especially not after such a long period of time, by taking

away the cause of the damage. Therefore, in this case the damage became of a permanent nature.

In addition, the damage done to such a Company is cumulative: The effects become noticeable on an ever-widening field and they are influencing and pronouncing each other, causing a slowly deteriorating of the Company. Only one possibility is left then: A forced move forward with the considerable risk of over-financing with again higher interests and costs.

The career, the working and private life, and the Company of your storyteller were severely damaged by the State. The personal damage, the working life, and the damage to the Company are spanning a period of more than 10 years. A call from the State on expiring of the case would be under these circumstances in conflict with the reasonability.

In restoring damage from the past, one has to take into account the interest. In the view of your storyteller, it is realistic to calculate the interest as cumulative interest.

It is established without a doubt that your storyteller did suffer material damage, caused by the doings of the State. Like also was established by both binding advisors and the National Ombudsman. From this material damage, only a fraction was repaid.

The amount of the damage is difficult to calculate: Now one has to compare the real financial situation from your storyteller over a long period of time, including the long term investments; with the fictive situation, which could have had occurred if his career and Company status was not interfered with unlawfully by the State. This damage is not only felt from the end of 1979 until today, but is going on into the future in missing retirement allowances and / or capital reserves and savings.

Your storyteller therefore is still claiming from the State of the Netherlands full payment for damages and costs with additional payment of the cumulative interest. He considers that this amount of around f. 1,500,000-, will be received as a sum in hands, and will remain the same amount without paying any kind of taxes over this amount. If it will be the case that taxes must be paid, then the State shall compensate any amount of paid taxes by instantly paying back, until a total of f. 1,500,000- is reached again. This (possible) compensation from the State is named compensation of taxes damage.

Your storyteller asks the attention from the State for the fact that by leaving this case unsolved, the damage will not disappear but is increasing, and also that the

unjustness, caused by her, will not go away, but will continue to grow. Then it becomes very difficult, if not impossible, to maintain one's loyalty towards the State, even if this loyalty is forced up on civilians on numerous fields by this State.

We are not living in an ideal world, but we have to make the best of it. We are obliged to. Everyone and everybody make mistakes and errors occasionally, also, and maybe especially, large bodies as a Government. This is probably inevitable. Possibly, they are still of good will and good intentions. If such mistakes and/or errors occur, one has to try to undo the negative results of the mistakes and/or the errors, especially if one's attention repeatedly drawn is to the problem. If one is ignoring deliberately the signals that are been given about the problem; the image of good will and good intentions will fade away.

What is left is guilty as charged.

**BERGING ZENDSCHIP MI AMIGO
LEIDT TOT VRAGEN IN KAMER**

(Van onze Haagse redacteur)

DEN HAAG — Ed. Nijpels, Tweede-Kamerlid voor de VVD, is in de bres gesprongen voor het bergingsbedrijf van Geert Theunisse uit Dinteloord. De inzet: het motorschip Magdalena, vanwaar Radio Mi Amigo tot voor kort uitzond en dat van de Noordzee naar Willemstad is gesleept. De staat had daar opdracht voor gegeven, althans dat dacht Theunisse. Zo eenvoudig ligt het echter niet, want de staat weigert de rekening te betalen. Er is geen opdracht gegeven, zo redeneert zij.

Ed. Nijpels wil via een lijst van vragen aan de ministers van justitie, verkeer en waterstaat en financiën horen hoe de vork nu precies in de steel past.

Anderhalve week terug zei hij: „Wij zijn van mening dat van de zijde van justitie behoorlijk wat fouten zijn gemaakt“. Het kamerlid wil weten of het klopt dat er een civiele procedure op gang dreigt te komen, nu de staat en Theunisse niet tot overeenstemming kunnen komen over de hoogte van het bergingsloon.

„Waarom wenst de staat op basis van de opdracht niet in onderhandeling te treden met de berger over het bergingsloon“, vraagt hij zich af.

Nijpels verbaast zich er ook over dat het schip — nadat het in Willemstad was aangekomen — zowat meteen aan een sloper werd verkocht en gesloopt. Nijpels: „Er was geen enkele dringende noodzaak om het schip op zo'n korte termijn te vervreemden, omdat het immers niet ging om goederen die onderhevig waren aan bijvoorbeeld bederf“. Het schip is voor 14.000 gulden verkocht, terwijl alleen al de achroetwaarde veel hoger lag en er voor de apparatuur in de machinekamer zo'n slordige 30.000 gulden was geboden.

Het kamerlid wil in ieder geval dat de advocaat van het bergingsbedrijf Theunisse alle processen-verbaal in handen krijgt die er over de 'Magdalena' zijn opgesteld. Hij wil ook horen waarom het deze keer het ministerie van justitie was en niet Rijkswaterstaat, zoals gebruikelijk, dat de opdracht gaf om het zendschip weg te slepen.

Lots of written questions were asked in the Second Chamber of Parliament...

Chapter 20 CLOSING

This was the story that was/is bothering your storyteller. The thought; that someone, anyone, who did his job for one hundred percent okay, shall suffer a lot of misery and damage for it and have to abandon his rights; is non-existing for me. The worst damage done is the vanishing of the thrust that I thought to might have in the Dutch State.

Now I just remember another true little story that once happened. About abandoning ones rights, and all that. Your storyteller gave assistance to a Belgian ship in some kind of trouble. After the assistance, the Captain, (on behalf of the Owner), signed the usual contract and went on with his voyage in a cheerful mood again. Receiving my remuneration took a long time and did not go smoothly. After a while, the reason for this became clear, when it appeared that the Insurance-Company was down the tube, bankrupt that is. Therefore, I wrote the Owner of the ship, to draw his attention on his obligations to me. After another few months, a couple of two Policemen came to my door with serious faces, and also a serious Belgian Document, saying that the Owner was deceased 2 months before...I swear to you that my letter to him was not that strong at all! There was neither inheritance nor were relations left.

This was one of the rare occasions, in which I had to leave my rights! As far as I know, the Dutch State is not deceased and not bankrupt (yet).

To end with. Mr. Fleskens worked his tail off to defend my interests in this case. He tried, almost to exhaustion, every possibility to let the State know that they were on the wrong track, alas in vain. Being right, is still something else then getting right? Thanks again Eric!

Mr. Blussé van Oud-Alblas tried in his unique amicable way to find a way out of this snake pit, from which existence he became only aware after it was too late. He did not wish, for his own good reasons, to go in with full force and bloodshed against the State. I do not let him down for that, on the contrary. He delivered me in the years after, many gold-rimmed salvage rewards, only by his skills and experience.

Thanks again Pieter!

Mediterranean Sea, February 15, 2001.

G. Theunisse.

INDEX

Chapter.....	Title.....	Page.
1	Salvage	3
2	Summons	14
3	Witnesses	18
4	Negotiations	33
5	Investigation	40
6	The Secretary	47
7	The 1 ^e Arbitration	52
8	The Preliminary Advice	58
9	Arbitration Part 2	64
10	The Comparison	69
11	The Advice	75
12	Comment & follow up	82
14	The second arbitration	93
15	The Verdict	98
16	Reactions	102
17	The aftermath	109
18	Some more details	111

19	Recapitulation	122
20	Closing	126
---	Index	127
---	Appendix	128
---	Epilogue	243

Appendix

1)

October 1979, Article from “Veronica-Magazine”

Radio Mi Amigo isn't any more. After a 3-month period, this radio station went Off-Air for the second time, and it is not very likely that Mi-Amigo-sounds will be heard again any time soon from the North Sea. It all started so well when back in June the first rumors about a new beautiful radio-ship were spread around. MV. Magdalena was a fairly new ship: Build in 1964 and later on converted into a radio-ship somewhere at a Port in Greece. Total costs of the project, 3 million Guilders. Although the Free-Radio world enthusiastically greeted the new station, it was becoming obvious after one month already that the whole organization from Mi-Amigo was not in proper hands. Many troubles occurred, a weak anchor-chain, difficulties with fuel and other supplies caused a very unsteady broadcasting sequence with wide gaps in it. Ton van Draanen, Editor from radio-magazine Free Wave, is telling us the true story behind Mi- Amigo.

How did it all start? At Sunday, July 1, 1997, Mi-Amigo was commencing transmissions on 272 meters medium wave from her new ship “Magdalena” after months of preparations in the deepest secrecy. The new start proved to be too hasty, with at first just one disk jockey, Wim de Groot, who, after a few days got three colleagues, Daniël Boolen, Johan Vermeer en Ben van Praag. The Crew from the ship was two sailors from Ghana and a ships-engineer, Kees Borrell. Beginning of August, the Dj-crew was replaced by the new shift: Ferry Eden, Jerry Hoogland, and Eric Mes. With this new crew, the problems started, although this had noting to do with the Dj's, but with the organization behind the station. The ship's anchor-chain had proved to be too weak, which forced the crew to sail around for days on during bad weather in August. The ship's engine was okay so that caused no big problem. The biggest problem was the shortage of fuel and the very sparsely supplying. In addition, they had many problems with the six Aerial-wires, who snapped very often. The month of September would turnout to be disaster-month for the re-borne Mi-Amigo station. Many Dj's and Kees Borrell had already left and Ferry Eden together with Eric Mes stayed onboard for presenting programs, not much tough. Overall, they were On-Air no more then 5 days in September. In the second weekend, there was a decent supply of fuel and

foodstuffs and also Wim de Groot together with Ben van Praag arrived back on the ship.

Starting in July, the Magdalena was anchored out on the North Sea, some 30 miles offshore, but due to the insufficient anchor-equipment, now slowly drifting towards the shore. On September 17, floating around at 4 miles offshore from the island of Schouwen-Duiveland, they were trying to crank up the main engine in order to bring the ship further out again. The main engine did not start due to low pressure on starting-air because of overload on the auxiliary engine. Later on, they have had an explosion in the same engine because a piston blew up. Therefore, they were drifting to the shore with a good chance of stranding. And so it happened. In the morning hours from the 19^e of September, the ship was beached on the "Aardappelbult", 2 miles out of the coast from West-Schouwen. They tried to make contact with somebody from the organization, who promised that a tugboat would arrive soon to pull the ship afloat again. But, all that arrived, no tug, due to bad weather with 40 knots of wind. Meanwhile, the Dutch Coastguard had spotted the ship and proceeded towards it with a lifeboat to investigate. On September 20, The Coastguard offered the crew to leave the ship and go ashore but the crew declined this offer.

On Friday morning the Pilot ship, "Delfshaven" was proceeding to the ship. Onboard was Mr. Roth from the RCD (Radio-Control-Service) and several members of the Water Police from Hellevoetsluis. This party boarded the ship around 7 o'clock with an order from the Officer of Justice, Mr. Pieters, to take the Magdalena into custody. Mr. Roth removed the oscillator from the transmitter and sealed off the installation. The ships Crew was arrested and regardless of the heavy swell, taken on a small glass fiber boat, two at the time, to the Delfshaven. The trans-shipment was dangerous: On the 3^e trip, the glass fiber boat was heavily damaged. Mr. Roth stayed onboard from Magdalena, still on the sandbank, together with two Policemen.

The Crew from Magdalena: Ferry Eden, Eric Mes, Wim de Groot, Ben van Praag, Jacques van Dijk (the technician), and the two sailors were transported to Hellevoetsluis to different Police stations and questioned for a long time. The Police would like to know everything about the tender-trips, ship-shore and visa-versa, and they kept asking about the people "beyond" the radio-station, but they didn't get many answers. After statements were completed the four Dutch Dj's were released on September 22 around 15.00 hours. The two Ghaneese sailors were handed over to the Alien-Police for further handling. The personal details

from Ben van Praag and Jacques van Dijk were transferred to the Belgian Police. They were released also.

On Saturday, September 22, the salvage ship "Dolfijn", from Smit-Tak-Rotterdam, tried to refloating and save the stranded ship. Meanwhile, the ship had several leaks in the hull. This enterprise failed because the Dolfijn was unable to approach the ship close enough. On the next day, Sunday, the salvage of the ship succeeded...More about this, we heard from the Commander of the State-Police-Group Willemstad, the Adjutant J. Kamp: whom we visited on Tuesday, September 25: And who was involved in this action.

"Sunday, September 23, we have chartered the salvage ship Furie-2 on a "No Cure-No Pay" basis. We were proceeding ahead with our RP-9 and awaiting Furie-2. At a certain moment, we observed that the ship Magdalena started to move on the sandbank at high tide. We decided than to try pulling the ship off with our own boat. Four times, the towrope broke but the fifth time we succeed and the Magdalena became afloat again. Because the RP-9 has no rudders but steers with her propellers, we had to pull backwards on Magdalena with the towrope on the bow from RP-9, attached on the stern from Magdalena.

This spectacular event was not finished yet because the ship had to be towed to the "Storage dock" at Rotterdam. Meanwhile, problems were plentiful because the ship was seriously making water and was in danger of capsizing. Moreover, the ship came close to grounding again. Near Goeree, the Furie-2 arrived, who took over our tow. Furie-2 started with pumping out the water as far as possible. After some time the pumps stopped and because of that, we decided to go to Stellendam. Of course, our aim was to get the ship of the sea, into inland waters, as soon as possible, to prevent anybody taking the ship back to sea again. At six o'clock Monday morning, we moored in the Stellendam Lock. After that, the ship was towed to Willemstad en is safe now behind the Volkerak-locks. The ship is already stripped from all her equipment like recorders, pickups, tapes, and records. The situation onboard when we arrived, was very chaotic and the people were very dirty."

THE END

Concluding our interview, Mr. J. Kamp told us: "I think this action will be the end for Radio Mi-Amigo. Tomorrow, Wednesday 26, the Shipwrecking-Company "V/d Marel" will transport the ship to Nieuwerkerk at Zeeland, were it will be demolished". "The Magdalena has no less than 9 leaks in the hull and is declared not seaworthy. Mr. V/d Marel has bought the ship from the Dutch Government and is

now the Owner of the Magdalena". Your reporter himself made contact with Mr. V/d Marel and to my question, how much he did pay for the ship, he did not answer. According to Mr. V/d Marel, the interior of the ship was very decayed and everything was very dirty. In addition, he told me that the expensive RCA. Transmitter was smashed down, he thought by the Dj's. But we have our doubts about that. We think that the RCD did. By closing time from this article, Magdalena was still in one piece and was moored at "De Val" close to the "Zeeland Bridge". On Saturday, September 30, Free-Radio zealot Rob Olthof visited Magdalena, and was even allowed to go onboard of the ship, where he could see for himself that the ship indeed was turned into a pig sty after 3 months in action at sea. Mr. V/d Marel told Rob, "Unimaginable, such a mess on this ship. In the past, I demolished also the ships Cornet from Radio Scotland and Frederika from Radio Caroline, but those ships were nice and clean compared to this one." Furthermore, he told me that within 2 weeks time it is Magdalena's turn to be demolished.

What are the Legal consequences about all this? According to Dj. Ferry Eden, the Police was not allowed to intervene because the Magdalena was registered in Honduras, and the Dj's had a contract with a Firm at Mauritius and it's forbidden to just haul in foreign property. Officer of Justice, Mr. Pieters stated in return: "The ship was equipped with an illegal transmitter and the Dutch Justice is allowed to take such equipment in custody. If in time someone would show up to demand the ship back and the ship should have been demolished by then, they will have the money in return minus our expenses, which are a lot." (End of article.)

2)

-Radio Mi Amigo- From "LEKKO" Magazine

From J. H. de Bruijne.

In the night of 23 to 24 September 1979, the State Police boat RP-9 from Willemstad, and the salvage tug Furie-2, from G. Theunisse at Dintelsas, and the tug Orca from T. Okker at Den Bommel, did succeed in the salvage of the MV. Magdalena from Radio Mi-Amigo. The Magdalena, with homeport Puerto Cortes (Honduras) was since the 19e of September 1979 off the air, after she was drifting ashore, due to bad weather, and with engine trouble. On September 20, the ship, with an illegal transmitter onboard, went into territorial waters, was beached on the Aardappelbult, a sandbank between Brouwersdam and Goeree, and damaged.

By order of the Amsterdam" Officer of Justice; the State Police, together with the RCD had boarded the ship on September 21. For this purpose, they deployed the

buoying-ship DELFSHAVEN from the Pilot-service at Hellevoetsluis. The Magdalena was placed under custody; the transmitter was dismantled and sealed. The Crew, who was in distress because the ship was making water and list, was transported off the ship with a sloop from Delfshaven and with the lifeboat Zeemanspot from the Z.H.R.M at Stellendam. The Salvage & Towing Company Theunisse received at September 23, a salvage order from the Officer of Justice at Amsterdam and to transport the ship to Willemstad in cooperation with the RP-9. The salvage order was given on a No Cure-No Pay basis. On this order, the Furie-2 and Orca went to the position of the Magdalena. Arrived there at 17.30 ours, it turned out that the ship had made a lot of water in the hold and engine-room, with a list of 30 degrees to Portside. The RP-9 was also on the scene.

With the upcoming tide, the ship was afloat but was now starting to capsize. The RP-9 was towing on the bow. The Furie-2 was alongside the ship and was pumping on the Hold. The Orca was kept standby. They set course, via the Slijkgat, to Stellendam. During this trip, the ship went aground again, close to Stellendam because of too much draught due to the water inside. With a lot of effort and hours of pumping, they managed to tow the ship inside Stellendam at 4 o'clock in the morning of September 24. In port, the rest of the water was pumped out, which brought the ship upright again and it could be brought into the lock. After proceeding through the lock, the mobile salvage pump from Orca was put on duty on the ship for fighting the incoming water, because Furie-2 was now taking over towing. The transport went via the Haringvliet, and was moored at Willemstad at 14.00 hours. The next day, September 25, the few tiny leaks in the ship were repaired. The Magdalena was sold to H.P. Heuvelman BV at s-Gravendeel for demolishing. This firm sold the ship immediately to ships wrecker V/d Marel at Viane in Zeeland. The next day, these firms' tugboats ZIJPE and RINUS transported the ship to Zierikzee. (End of article).

3)

BEREX BV

To Salvage Company Theunisse, DINTELOORD

Our ref: 9114/67/0. Date: 9.8.80

INVOICE

Insured Object/Interest: Radio-transmitter ship "MI AMIGO"

Subject: Taxation and valuation.

Survey and/or inspection fee f / Dfl. 3,860=

Sub total	Dfl. 3, 860,-
V.A.T. 18%	<u>Dfl.. 694.80</u>
Total	Dfl. 4,554.80

4)**Mrs. Van den Heuvel & Fleskens, Lawyers & Procurers**

To the Court of Discipline, UTRECHT

Most Honorable Sirs,

By this letter, I inform you that I wish to file a complaint against Mr. S. E. Gratama, Lawyer at The Hague, and holding office at Kon. Julianaplein 15 in the "Stichthage", building, 10e floor, The Hague. The content of my complaint is attached to this letter. Since Mr. Gratama is a member of the Lawyers-Counsel-Inspection at the District-The Hague, this Counsel is not authorized to handle this complaint. I respectfully request your Court to appoint another Inspection-Counsel for handling this complaint.

Respectfully yours truly, Mr E. C. P. G. M. Fleskens.

4)**COMPLAINT**

To the Dean, who will handle this complaint, according the Decision of the Court of Discipline.

Dear Colleague,

A dispute did develop between my client, G.A.Ch. Theunisse at Dintelsas, municipal Dinteloord on one side, and the State of the Netherlands on the other side. The content of the dispute is about the question if the State has indeed ordered my client for the salvage of the motor-ship Magdalena, under Honduras flag, which order had to be carried out under the "No cure-No pay" condition. At first, Mr. Bouma was acting on behalf of the State, but later this task was taken over by Mr Gratama, lawyer & procurer at The Hague, holding office at "Stichthage" building, 10e floor.

The States point of view was that they did not give a salvage-order, but only were asking my client to "assist" with the salvage of the mentioned ship. My clients' interest in this case was large, since his salvage-claim amounts to f. 80,000-. By request dated October 16, 1979, I asked the Districts-Court at The Hague for a preliminary hearing of witnesses, for a total of seven witnesses. Enclosed you will find a copy of the request.

On October 18, 1979, the Court at The Hague ruled that the preliminary hearing would be held on November 19, 1979, 10.00 pm. The Court ordered Theunisse to hand over the documents to the State before November 8 1979, and to call on the witnesses by writing and with confirmation of receiving. On my request to Mr. Bouma, to let me hand over the documents straight to his office, he answers me that he or his client cannot allow this. On November 2 1979, my request, with the Courts Decision, was handed over to the State.

On November 7 1979, Mr. Gratama, who in the meanwhile has replaced Mr. Bouma, writes a letter to the Judge-Commissary Mr. Reisig, that he cannot be present at the hearing, and therefore is asking for a postponement of the hearing. A copy of this letter was send to Mr Larèt, my Procurer at The Hague. Because of this, I received the request for a postponement only on November 9, on which date I immediately wrote to the Judge-Commissary, that I had serious objections against a postponement. I pointed out to Mr. Reisig that the State indeed was informed by me, in a proper manner, that I was starting a procedure, but that the State had refused to choose domicile at the office of the State-Lawyer, and by doing so, I was obliged to formally hand over the documents to the High Court at The Hague. The Judge-Commissary decided to proceed with the preliminary hearing.

By writing, and with confirmation of receiving, dated October 29 1979, I have called on all witnesses. All the confirmations of receiving were returned to me by mail. As far as I know, all witnesses were willing to appear at the hearing. On Friday evening, November 16 1979, I received a message from my client that Mr. Gratama, via a Policeman, Mr. Petersen, had ordered four of the witnesses to stay home. Immediately I have called by telephone Mr. Gratama on his private number, who confirmed the message of my client. He told me that the witnesses are in Government service and that the State thought it better that these witnesses would not appear at the hearing. After this, I have spoken by telephone with Mr. Van Boeschoten, but he is no longer the Dean from the Inspection-Counsel at The Hague. He advised me to contact with Mr. Meijer. Mr. Meijer was not at home. Again, I called Mr. Van Boeschoten and he advised me to contact with Mr. Utermark, the substitute Dean. Immediately I called Mr. Utermark and explained to him in short the situation. Mr. Utermark promised me to call with Mr. Gratama, and after that, to call me back. Some time later, Mr. Utermark called me back. He had a conversation with Mr. Gratama, who told him that he had have contact with the Judge-Commissary, Mr. Reisig, and that Mr. Reisig had thought it convenient that four of the witnesses would not appear at the hearing, and that for these witnesses

another day would be appointed. Therefore, only three witnesses would show up. The other witnesses on another day.

I was very surprised by this, because the Court knew before November that seven witnesses would be called upon, and that it would had been reasonable that, incase the Judge-Commissary did not had have enough time on this one day, he could had have set two days for the hearing, or at least could have had consult with me about it, to split the hearing. Meanwhile, I received a copy of a letter from Mr. Gratama, dated 16 November 1979, addressed to the Judge-Commissary, in which he wrote that he had called on 3 from 4 of our witnesses, Pieters, Van der Sluis, and Van den Berg. I could not grasp the sense or purpose of this letter. At Sunday, November 18 1979, again I have notified the four witnesses, this time by cablegram, to appear on the hearing, being the four witnesses Mr. Gratama had told to stay at home. After that, again, Mr. Gratama repeated to these witnesses his order to stay home.

On 19 November 1979, I had the opportunity to ask Mr. Reisig if he had something to do with these four witnesses, not showing up, because it was more convenient for him. Mr. Reisig became very upset about this question, because the Court had decided already about the hearing on November 19, and that the Court did not had given any conditions about the number of witnesses. He had taken in consideration the number of witnesses, and he told me that, incase the Court seven witnesses had found to many, the Court would have decided to take two days for the hearing. On my question if he has had contact with Mr. Gratama about this, Mr. Reisig told me that he had received a letter from Mr. Gratama in which he conveyed that he had called on three witnesses. Also, Mr. Reisig could not grasp the purpose of this letter. In addition, I understood from Mr. Reisig that he did have had contact with Mr. Gratama by telephone, in which call Mr. Gratama told Mr. Reisig that, after consulting me about it, four witnesses were called of. When I told Mr. Reisig that I did not know anything about the whole affair and only by chance had heard from the fact that Mr. Gratama had called of the witnesses, and that I again had called for them on Sunday in vain, Mr. Reisig was very surprised by it. He told me that he would not have anything to do with the whole story. Has a result, only three witnesses appeared at the hearing on November 19 1979.

I consider this action and behavior of Mr. Gratama in this matter very wrong and a serious fault in his way of acting as a lawyer. Mr. Gratama by this action has frustrated the rights from Theunisse. Mr. Gratama knows, is supposed to know, that witnesses, who are called on, have the obligation to appear. The witnesses were called on by the contra-party from Mr. Gratama and he has to keep himself

from ordering and persuading those witnesses, to keep them from appearing when called on. Mr. Gratama did this without notifying or consulting me about his plans. In addition, he wrongfully informed the Judge-Commissary about this matter, to give him the impression that he had done so in consult with me, which he did not. I consider the behavior of Mr. Gratama very wrong, and I am convinced that my complaint about this is fully justified, and that Mr. Gratama made a grave mistake in his profession as a lawyer. I respectfully request you to handle, and rule about, this complaint. I am prepared to provide you with more information if you wish. Yours truly, Mr. E. C. P. G. M. Fleskens.

4)

Pels Rijcken & Droogleever Fortuijn, States lawyer

To The Highly borne Baron, Sir Mr. F. W. B Baron van Lynden, ROTTERDAM

Date: April 11, 1980. Our ref.: Gr/ek. Your ref: Case: Complaint Mr. Fleskens
Honorable Dean,

Before I will react on the extended letter from Mr. Fleskens, allow me first to reflect on the most essential facts of the matter. Mr. Fleskens did not inform me about the request for the preliminary hearing. Therefore, I was not able to convey my dates of inconvenience or wishes. In fact, I heard on November 6 that the hearing would take place on November 19 1979. All of the witnesses are in service of the State, and they were the people who had to inform the civil servants from the Department of Justice, and me, about the facts of the matter.

A hearing of witnesses in which the witnesses are people from the own party, requires much more preparation than a hearing from witnesses from the other party. In addition, to get a good view on the case, I needed to talk with the involved Policemen. During these talks would also be present, the people from the Department of Justice. Because I was extremely occupied in that period, it was very difficult, if not impossible, to have these talks on such a short notice. On top of that, I was not available on November 19, because why I asked the Judge-Commissary to postpone the hearing. I expected in view of these circumstances, to get a postponement. I am still convinced that Mr. Fleskens should have had cooperate with me, now I was not able to let know my dates of inconvenience to the Judge-Commissary. Instead, Mr. Fleskens made objections against a postponement.

On November 13 or 14, Mr. Reisig called me by telephone and told me that, incase I needed a postponement, the whole case probably would have had to move to February or March, and he therefore had objections against it. (For me, a post-

ponement of two weeks would have been sufficient, and later the second part of the hearing was held on December 21). As I stated before, for a proper preparation of the case, it was necessary to have a talk with the people involved. Meanwhile it proved absolutely impossible to arrange these talks between November 14 and 19. In this situation, I decided to let the witnesses, who would have little to tell, appear on the hearing on November 19, and that the others, which with whom I had to speak first, should appear on a hearing on another date. A date on which I myself also could have been present.

Mr. Fleskens was trying to create a situation in which I was unable to prepare myself in a proper way for the hearing, which would had put my client, the State, in a unmotivated disadvantaged position. In my view, Mr. Fleskens, with his behavior and with his complaint, is ignoring the rules regarding a witness hearing, (in fact as in the whole of the procedure-rules), that these rules are there to have the possibility of a proper procedure for both parties, and not to provide just one party with a head start in advance.

I have the impression that Mr. Fleskens complaint is also conducted in connection with a Press-campaign against the State from Theunisse. Beginning November, Theunisse had started this campaign, in which various civil servants were accused of various facts.

As soon as Mr. Fleskens filed his complaint against me, he gave this document to Theunisse, who, like it was to be expected, immediately handed the document over to the Press. I have to assume here that Mr. Fleskens not himself did send the document to the Press. Considering the large volume of the letter from Mr. Fleskens, I only stipulate a few points here.

Without explicit permission, we are not allowed to let the State choose domicile at our office for starting procedures etc. To get such permission takes consulting and can take a long time. That is why Mr. Bouma was denying the request from Mr. Fleskens, concerning this. It makes, by the way, little difference between handing over the documents to the High Court, or to our office. A valid reason, why I did not receive at least a copy from the request for a preliminary hearing, I did not found in the letter from Mr. Fleskens. This case is neither complex nor is it complicated. A delay of a few weeks of the hearing would not have harmed the client from Mr. Fleskens at all. Nevertheless, if Mr. Fleskens wanted this hearing to be held with great urgency, than it was certainly necessary to consult with me.

Me is not clear at all why it was so important to have the witnesses being heard in a certain sequence. In my opinion, a sequence was completely irrelevant, but with the hearing postponed, Mr. Fleskens could have had any sequence that he had

wished for. The reflection in my letter from December 12, of my telephone call with Mr. Reisig, is correct and I stick to it. Mr. Reisig called me; I had no reason to call him, because I assumed that the hearing would be postponed.

On November 16 1979, I had a telephone call with the substitute commander of Police at Willemstad and talked over with him this situation, hearing the witnesses without a proper discussion upfront and without me being present.

Later, I learned that this substitute commander was Mr. Petersen. At that time, I did not know that this Petersen was passed for the rank of Group-Commander, because of insufficient capacities, and because of that, he was filled with great dissatisfaction against the Police, and short after his dismissal from the Force, would undertake everything to be as unpleasant as possible, for the Police, as well as for the Department of Justice.

Considering the impossibility of a meeting on beforehand with the witnesses, and my absence during the hearing, and that Mr. Petersen told me that some of the witnesses would have little to tell, I agreed with him that these witnesses should be heard first, and the others on a later date, on which I could be present, and after I had the opportunity to have a meeting with them. Also, we agreed that the witnesses, who would be heard, should arrive a little sooner, to make it possible that Mr. De Wijkerslooth, who replaced me, could speak with them on beforehand. Later on, Mr. Kamp called me, and I told him about the same as I did to Mr. Petersen. Therefore, in a material sense, the statement of Mr. Petersen is somewhat correct, with the remark that, where he is quoting me, he allowed his fantasy to totally run away with him.

In Mr. Fleskens view, the witnesses were intimidated before the hearing. I do not know how that could have happened, certainly not by Mr. Kamp, who will be dismissed from the Force one of these days. I never have noticed anything of this. At the meeting at the Department of Justice, the witnesses were allowed to speak freely. For me, it was only important to learn what they could say at the hearing. I will add to this that in this case, the facts are known now, but the important thing is, how these facts should have to be interpreted. This case will not be decided on from the hearing (not this one), but by answering the question, which Legal significance is to give to certain established facts. Besides that, it is possible that the value of the ship Magdalena will be of great importance. About this point, it is possible that also, witnesses will be heard, but the hearings already carried out did not handle about this at all. Yours truly, S. E. Gratama.

5)

Department of Justice

To the Chairman of the Second-Chamber from the Parliament, Binnenhof 1a, The Hague

Your letter: November 9 1979, no 79.1596.
579

Our ref: Dir. Police no 1524 J

Subject: Questions Nijpels

Date: November 30 1979

In answer on your above-mentioned letter, I inform you that to my regret it is impossible to answer on the, by your Member Mr. Nijpels, asked questions within the set term because at the moment, I am waiting for documents I asked for. As soon as I have received those, I will answer as soon as possible

The Secretary of Justice, Prof. Mr. J. De Ruiter

6)

Nauta-van Haersholte, Lawyers, & Procurers

The Honorable Sir, Mr E. C. P. G. M. Fleskens, TILBURG

Rotterdam, April 21, 1981. Case: Heuvelman/Theunisse

Dear Confrere,

Enclosed, you receive the documents you have asked for. In the Insurance-documents, I erased all info that had nothing to do with the Mi-Amigo. I assure you that I did not erase parts that were related to this ship. Also, I enclose four copies of the deed between our Parties. As you will notice, I made a few changes in your concept. There is a little difference, being it less significant. However, indeed important is that your client has to assure my clients against possible actions from the Government. I think that is reasonable. Clients cannot foresee your clients' actions with/against the Government. My clients must take into account that documents, your client is receiving now, can end up in the hands of the State also, and probably will be used against my clients, if there should be any reason to do such. In addition, it is possible that your client can make a deal now with the Government; where after the Government can get the idea to summons my clients. Meanwhile, I am waiting the by your client undersigned deeds, send back. Because I am leaving this office in a short time, my colleague Jhr. Mr. V. M. de Braauw will handle this case in the future, if necessary. Yours truly, B.C. de Savornin Lohman

7)

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: The Honorable Sir Mr. E. Fleskens, TILBURG.

Our ref: Gr/ek/14.20.009 your ref:

Dear confrere,

With regard to the value of the Magdalena, the State has gathered more information. By information at Rotterdam, from several directions they told me that Mr. Dee from Supervision Shipping & Trading Company is an expert in the valuation of ships. I have sent him several documents, under which the valuations report from Berex BV and also his report regarding the salvage. Considering the details in these documents, he concludes that we are speaking here about a scrap-ship, and it is therefore possible to accurately establish the value of the ship. Taking in account the costs of transport to the scrap-yard, this value is f. 29,200-. It must be clear that the Government is not able to get such a high price, since she has neither knowledge nor relations in this world and she had to sell the ship on very short notice. I also asked advice from Mr. Dee about the salvage reward, to be paid to Theunisse. Since Mr. Dee is regularly involved in the sale of saved ships, he is able to give a reasonable judgment on this point. His taxation came on the amount of f. 15,000-. Therefore, after consulting with the Department, I am authorized to offer an amount of f. 15,000-, for which your client has to transfer to the State, his rights on the Owner/ship. I think, this is a very reasonable offer, now it is assuming that your client did the salvage on his own, while in fact, he did it together with the Police. Enclosed, you will find a copy van Mr. Dees' valuation. I like to hear about your clients' reaction. Yours truly, S.E. Gratama.

7)

SUPERVISION, TRADE REGISTERS ROTTERDAM NO. 84636**VALUATION:**

Carried out by us: The taxation from the MV. Magdalena, ex Centricity, as on date September 25 1979, delivered on the scrap yard, amounts to Fl. 39,200-. On the basis "as is where is" to extract with the costs of stopping leaks, placing of pump, and the tow costs, to estimate on a total of Fl. 10,000-. Rotterdam, June 6, 1980.
(R. H. R. Dee)

8)

Mrs Van den Heuvel & Fleskens, Lawyers & Procurers

To The Honorable Sir, the Attorney General, Districts Court, s-Hertogenbosch.

TILBURG. June 20, 1980.

Theunisse/State of the Netherlands

Honorable Sir,

April 21 1980, I addressed the enclosed request to the Honorable Sir, and Attorney General at Breda, Mr. J. M. van Leeuwen. Some time ago, Internal Affairs had finished her investigation and did send her report to the before-mentioned Attorney General. Now I have learned, that the Attorney General, considering the guidelines, cannot grant my request, although he has understanding for my request. Regarding the fact, that I on short notice are expecting a meeting with His Excellence, The Secretary of Justice, and with the Member of Parliament, E Nijpels, and with the Lawyer of State, I would like to have this report from Internal Affairs, to be evenly well informed. I would like to add, that if we cannot reach a settlement in a short while in this case, it would be necessary for me to commence a Procedure before Court. This Procedure has to start at latest at September 1980. Also in this view, it is necessary for me to be adequate informed about the facts around the salvage order, the value, and the sale of the ship, etc. By this letter, I ask you to grant me my request and to have sent me a copy of the report.

Respectfully Yours, Mr. E. Fleskens.

9)

INTERNAL AFFAIRS, at 's-HERTOGENBOSCH, Director of Police.

Pro Justitia, Report of INVESTIGATION. No. 6030 - 313/80/Ga

Investigators: S. Gaastra. - L. J. de Louw.

Damaged party: The State of the Netherlands.

Reporter: S. Gaastra.

NOTE

Subject: Removal of the transmitter ship Magdalena.

Facts: During the salvage of the Magdalena, Adjutant Kamp got the idea to very quickly sell the ship, which was put under custody. On Monday, September 24, '79, he is asking in a casual manner to Theunisse if he is interested in the ship, (time 06.30 am). Theunisse is informing two businesspersons who, the next day, make an offer for the engine-room etc. They are too late, because Kamp already phoned his friend, Timmerman, Sept. 24, 13.30 pm. Timmerman could not handle the ship, but was allowed to inform his brothers in Law, Heuvelman, 09-24-79. Kamp (and also Verveer) inform Mr. Pieters around 15.00 pm that the Magdalena is leaking 12

Tons water an hour. Mr. Pieters is asking for an expert, who was already informed by Kamp, (12 Tons an hour).

09-24-79. Expert Rijpkema phones Timmerman at 17.15 pm. He arrives on the ship together with Heuvelman. Rijpkema is speaking about the price. In addition, he is telling Timmerman that there are no more candidates. 09-25-79, Message from Mr. Pieters: Sold to Heuvelman for f. 14,000-. 09-25-79, Ship sold by Heuvelman to V/d Marel for f. 28,000-. Salvage claim Theunisse f. 80,000-. Value Magdalena (experts) f. 180,000-

Timmerman receives a commission ad f. 3,000-. Heuvelman makes a profit in a few hours: f. 14,000-. The State of the Netherlands is being claimed for f. 118,000-

On Feb. 26, 1980, The Director General of the Police, Mr. J. H. Grosheide, at the Department of Justice, is requesting the Attorney General at s-Hertogenbosch, to investigate the facts around the salvage and sale of the ship Magdalena, a.k.a. Radio Mi-Amigo, placed under custody. The Attorney General is granting the request by appointing Internal affairs from s-Hertogenbosch to do the investigation. Mr. Grosheide conveyed also that more information was available from Mr. Tazelaar at the Department of Justice. On Feb. 27, 1980, have I, Sjoerd Gaastra, special investigator from the State-Police in the rank of Inspector, had a meeting with Mr. P. D. R. Tazelaar. He handed over to me, a dossier in copy, containing among others, Press releases, and documents, which shows that:

1. The illegal broadcast ship Magdalena went aground in the night from Sept. 19 on Sept. 20 1979, on a sandbank in front of the coast of Goeree.
2. That Mr. J. H. C. Pieters, Officer of Justice at Amsterdam, placed this ship under custody.
3. That the salver, G. Theunisse from Dintelsas, had saved the Magdalena, with or without the help from the State-Police, and towed it to the harbor at Willemstad. The dossier shows that a conflict is raised between the Dutch State and Theunisse about the financial aspects of the salvage.

In this dossier is also present, a note from Mr. Tazelaar to Mr. J. J. Kroeskamp, dated Feb. 20 1980, containing the transcript of a phone call between Tazelaar and Theunisse. This note is enclosed with this report and marked "A". This note shows that Theunisse is accusing a number of civil servants, who according to Theunisse misbehaved themselves in these matters around the Magdalena. Short after the salvage, a dispute developed about the salvage claim from Theunisse, with at stake, the sum of f. 80,000-. In this respect, a number of witnesses were

heard by the Judge-Commissary at The Hague, to establish the facts around the salvage order. This in connection with the salvage claim. Enclosed with this report are the witness statements marked "B". I, Gaastra, have kept myself from the civil part in this matter, and aimed my investigation on the accusations against civil servants, made by Theunisse. (See "A"). Because it appeared that possible crimes could be been committed in the District of Breda. I, Gaastra, have informed the Attorney General from Breda, Mr. J. M. van Leeuwen. From the progress of my investigation, I kept this attorney General informed.

NO CURE-NO PAY



Versus

The Dutch State

De MI-AMIGO Chronology

By

Geert Theunisse

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Part-4

On Mar. 4, 1980, I, inspector Gaastra, in the presence of Inspector L. J. de Louw, have heard: Gerardus Antonius Christiaan T H E U N I S S E — age 38 years, occupation salver, living at Dinteloord. He stated:

“In the night of Wednesday 19 to Thursday, September 20, 1979, the illegal transmitter-ship “Magdalena” from Radio “Mi Amigo” was grounded on the sandbank “De Aardappelbult” in front of Goeree. Sunday, September 23, 1979, around 11.15 hours, I received a phone call from Sergeant W. Welbie, at that moment on duty at the radio room from the State-Police at Dordrecht. He told me that he had just received a call from Adjutant Kamp onboard the RP 9. Kamp had requested him to call me for the salvage of the Mi-Amigo. Kamp had also asked if I was ready to do this on the basis “No Cure-No Pay”. After receiving some more information, I promised to sail out immediately with my salvage ships Furie-2 en Orca to the grounded ship. In my talks with the Operator at the radio room, sergeant Welbie, I did ask who was giving the salvage order. He told me that this order came from the Officer of Justice at Amsterdam. I already knew that the stranded ship was placed under custody. In the past, I did many jobs; that came from contacts with the State-Police, acting on behalf of a third Party; but then, it was always for private ship-owners. In this case, it was different: Now, the salvage order came from the Department of Justice. That is why I had to know who was giving the salvage order. When I heard that the Officer of Justice had given the salvage order, I assumed directly that getting my payment after the job was done would not be difficult at all. In retrospect, for me is it unthinkable that a member of the State-Water-Police is not aware of the customs and rules of the shipping sector. This, while Mr. Kamp is also substitute Officer of Justice.

That Sunday afternoon, around 5 pm, when I was around 3 miles away from Mi-Amigo, Kamp, onboard the RP-9 called me by VHF and told me that they just had pulled off the ship. I was not pleased at all. In fact, it scared the shit out of me. A

child knows that a ship, with a lot of water inside, is very unstable, and probably will capsize. In a short time, the ship got a list from around 30 degrees. Fast as hell, without thinking, we had to go alongside the ship to start pumping out the water. We had to go with our relatively small boats alongside this, close to 1000 Tons ship, which could capsize every second. It was a bad game of poker we played. If the Magdalena would have had capsized, she had taken us with her. Because of this stupid blunder of the State-Police, we had to risk everything, lives included. After a few Hours of pumping, the ship came slowly back on her keel again. All the time, one of my Crew members had to remain in the Hold, up to is ass in the water, to keep all kinds of rubbish from the pump hose. If something had gone wrong with the ship, this guy would have been dead.

I state here that members of the Police had put a small pump in duty on the Hold nr. 1. But this pump was broken down, and they had no other gear available. If we did not had put all our gear in work that afternoon, or if we had arrived only a few minutes later, the ship would have had been sank in a depth of around 8 meters. Meanwhile, the RP-9 had taken the ship in tow. We stayed alongside the Magdalena, occupied with the pumping. First Kamp wished to go to Hook of Holland. But I didn't like that one bit. The Hook of Holland Port Control would never have given us permission, to enter the important New Waterway to Rotterdam, because of great the risk of sinking. After a lot of hard work and a few hours delay at Stellendam, we came at Willemstad, around 14.15 pm on Monday, 09-24-1979. On request of Kamp, the salvage and transport of the ship was conducted under my supervision and command. This, also in view of the fact that I have some insurance for such operations.

At Willemstad, I have installed two small electric submersible pumps on the Magdalena. After we were sure that nothing could happen with the ship, we went home for rest. -Before the transport to Willemstad, we have spoken about the possible sale of the ship. I remember that Kamp asked me, "Is it something for you, Geert?" I am a salver, not a ship wrecker, but I understood that there maybe was something in it for a relation of me, namely Bogenda BV. at Zwijndrecht. When I heard the word "sale", I got interested, although I thought it fell in an early stage. Anyway, after Kamp's' remark, I called to my wife, that Monday Sept. 24 1979, via our private radio channel, and asked her to call Mr. Ooms from Bogenda, to tell him that the Magdalena maybe came on for sale in the harbor of Willemstad. My wife did so immediately.

The same afternoon, Monday, September 24, Ooms came onboard the Magdalena. I even had him introduced to Kamp. Mr. Ooms did examine the ship. He

told me that his Firm, Bogenda, was interested in the Engine room. Ooms told me also that they would find a scrap-yard, in order to demolish the ship. Of course, he had to speak first with his boss about the matter. The same Monday, in the evening, Mr. Boer, Owner of Bogenda BV called me and told me that he could confirm the offer of f. 30,000- for the engine-room. Later, the same evening, I received also an offer from the Firm Kerkhove BV at Zwijndrecht, who was offering f. 55,000- for the engine-room and all of the deck gear. After, I had received the offer from Bogenda; I had made a call with Kerkhove Jr.”

After rereading his statement to him, Theunisse undersigned the concept-statement.

In the afternoon of March 4, 1980, the question of Theunisse was continued.

He stated: “After my opening statement from this morning about the salvage of the Magdalena and for which, in short, I can refer to the Article in the Magazine, The Hague Post, from Febr. 2 1980, I like to stipulate the following points, which are important in my view.

- a. The order for the salvage.
- b. The refloating of the ship from the sandbank by the RP-9 on order from Kamp.
- c. My appointments with the two candidates for the possible buying of parts from the ship.
- d. The sale of the ship by the Dutch Government.

About the mentioned points above, I already have stated partly this morning. For your investigation, I like to add the following to it: Around 10 days after the salvage of the Magdalena, on a Wednesday morning, I was on the Police station at Willemstad, and had a long meeting with Kamp about the financial aspects from the salvage. I wished therefore to have contact with the Officer of Justice at Amsterdam, Mr. Pieters. I had already tried several times to get in touch with him, but no luck.

- e. This Wednesday morning Kamp agreed to write a letter on my behalf to the Officer of Justice. In fact, this idea came from Kamp. I have seen that he wrote a concept-letter and did hand it over to the Group-administrator, Mr. van de water, who typed out the concept-letter. After the letter was finished, Kamp had read the letter to me. The content was that I wished to have an urgent meeting with Mr. Pieters. I am convinced now that Kamp never did send the letter to Amsterdam, because if he did, I would have got a reaction of Mr. Pieters, who, considering the content of the letter would not have ignored it.

f. The Witness hearings before the Judge-Commissary at The Hague. About this, I have the following remarks: After Kamp shoved me out of the door; I started slowly to discover that some of the authorities tricked me. Right after my last visit to Kamp, I have contacted my lawyer, Mr. Fleskens at Tilburg. He sent a summons to the Department of Justice for my payment. They answered back, not to pay and not giving any security, because there was no salvage order given and that the facts were entirely different from my version of the story. Following this, Mr. Fleskens took steps to get the salvage order recognized, which led to the preliminary witness hearings before the Judge Commissary at The Hague. About these hearings, I have the following remarks. My lawyer, called for the seven witnesses, according the rules of the Law. The hearing would have been held on Monday, November 19, 1979. On Friday, Nov. 16, 1979, I heard from the Engineer from the RP-9, P. Kamp (nephew from the Adjutant), that he had heard the message for the four witnesses, who should not go to the hearing. The Post Commander, Mr. Petersen, had received this message by telephone, from the States lawyer, Mr. Gratama. I was told that this decision was taken, after consult with the Judge and my lawyer. After that, I had contact with my lawyer, who knew nothing about it. He called the States lawyer, who admitted frankly that he had arranged this. Mr. Gratama told my lawyer that: "The State thought it better that these witnesses shouldn't come". Gratama had told Petersen that only the witnesses, who knew little or nothing, should go. Gratama wished to speak first with the other four witnesses. The four witnesses were called for again by me, before the hearing, two on Saturday and two on Sunday by cablegram, and I called them by phone on Monday morning, but they did not appear on the hearing Monday. I know for sure, that by intimidation from Adjutant Kamp, the witnesses Heimesem and P. Kamp did not showed up.

g. The four witnesses meeting Mr. Gratama and Mr. Tazelaar at The Hague. Before the postponed hearing of these four witnesses, they were ordered to come to The Hague. I knew for sure that Heimensem and P. Kamp agreed fully with my view on the case. After the return from their meeting with Gratama and Tazelaar at The Hague, I had the strong impression that they were grossly manipulated. That Gratama has instructed them about what to say at the hearing, and for sure, what not. They told me that they were under a total embargo about the whole case. Very short before the second hearing, P. Kamp told me that we should ASK everything. "You will not get any presents".

h. "Research" from Adjutant Kamp. About this, I have to say, that it looks strange to me that Adjutant Kamp in this case, for The Hague, up until now, carried out all the

“research”. Because since he is up to his ears involved in this. I’m told that Kamp is been busy for 5 months now, to work on his defense; for example:

i. The visit from Mr. Ooms (Bogenda) to the ship. On Monday Feb. 25, 1980, Mr. Tazelaar told me, by telephone, that Justice was not convinced about the visit of Mr. Ooms to the ship Magdalena on Monday Sep. 24, 1979, because Adjutant Kamp had told him that he had investigate about this visit from Ooms, on Monday. Kamp had found out, he said, that Ooms did not visit the ship that Monday. After that, I had checked on this, with the help from various other Policemen, it showed that Kamp, on purpose, had used the wrong date/day, Tuesday, instead of Monday, for his “investigation” by checking around in the daily notes from, and asking all Policemen at the office. I have told you already that I have introduced Ooms with Kamp, and asked him for permission for his visit onboard, that Monday. This after Kamp had made his remark about the sale of the ship, and I told him that I would contact some relations in shipping business.” After rereading his statement to him, Theunisse undersigned the concept-statement.

Statement from Theunisse on March 10, 1980.

“You have read to me, some parts from the Statement nr. 652/79, made by the Adjutant Kamp and Heimensem dated October 4, 1979. On page 4, this part: “He, Theunisse, considered his job ended at Stellendam and advised us to ask “Towing Service Broedertrouw at Zwiendrecht”, for the transport of the ship.” This part of this Statement is not according the truth. The name Broedertrouw was mentioned, but the ship was not in a condition at that moment, that they could simply tow it, because they are not a salvage Company. The ship was still leaking and they are not equipped for that. You may not conclude because of this part of the Statement, that my job was ended. Also, you may not conclude that it was a “joint venture”, this salvage, as this Statement suggests, again, where Kamp says that my job was ended at Stellendam. I deny that strongly.

About the next passage: “That both salvage ships did come back on Tuesday and commenced diving operations and were repairing the leaks; was not agreed upon. We were not consulted for that, and no order is given for it.” I have the following comment on this one: These works were none of Kamp’s business at all. We were still busy with the salvage order on a “No cure-no pay” basis, and a part from the salvage was to bring the ship in safety again, and if safety requires the repairs of a few leaks, than we just have to do just that. Ask Kamp, if you wish, why I was busy that Monday afternoon (September 24, 1979) after 15.30, when we had just

moored the ship, with my preparations for the coming night. In his presence, together with the Districts Colonel, I was installing small electrical pumps, powered from the shore. Kamp had arranged for the shore power. I have instructed two members from the Police, who were guarding the ship, about our preparations and the two pumps, and I told them that I would come back early the next day to fix the leaks. Kamp does not need to tell me what I have to do or not, to make a proper job.

On December 24, 1979 and beginning January 1980, I have had long telephone calls with the Districts Colonel at Dordrecht about this affair. A few days after this last call, I received a phone call; I do not know the exact date any more, from the Districts-Radio room. The person preferred to stay anonymous, but told me, he was from the Districts-Radio room. The call started with, "Hello Theunisse, how are you doing?" I answered that I thought this was an odd question, in view of the things going on. He asked me then: "Hey, do you know any other telephone numbers from salvage Firms?" I knew the same moment that this was an attempt to intimidate me, but I gave the phone number from my colleague, Th. Okker at Den Bommel. I added that Okker is often working for me. He replied, "Well, that is of little use than; don't you know others, because we will see to it that you go out of business if you do not stop harassing the Police." Later, I have heard that it is common knowledge at the Radio room that Theunisse is not to be called under any circumstances, because of the many complaints I made against the Police and to the Colonel in person.

Valuation Report from the Ships-Service.

Statement Theunisse: "About this subject I have the following remarks: The valuation of the Ships Service of the ship Magdalena ad f. 14,000- is only laughable. The valuation took place on 24 and 27 of September 1979. (See report). It is absolutely untrue about the emergency repairs, up to f. 50,000-, and that it is necessary to have the ship hauled out. Bullshit that is what this is. These emergency-preparations are pure fantasy. They speak of the heavily damaged bottom and serious leaks in the chines. The Ships Service could not possibly know that, because they were not under the ship. On this date, September 24, nobody could know this.

On September 25, I have, replaced two missing rivets in the Port-chine and after that; the ship was okay, safe, and watertight. When the Ships Service states in there report, dated September 28 1979, page six, par. 3; that the costs for these repairs, in order to have the ship laid-up amounts to f.50, 000-, I tell you that this is

a lie. As I said, we fixed the leaks on Tuesday, September 25, in a few hours time. With a little more preparation, the Magdalena was fit and safe to be laid-up for at least a year, without any danger of sinking. See this report on page 1: "Leaking in the Port-chine under Hatch no. 2 due to heavy damage". This "heavy damage" simply was two missing rivets, nothing else. The whole of the report is filled with remarks, conclusions and so-called facts, which are not true. I wish to add furthermore that this report is written and dated AFTER I had hand over my salvage report and salvage claim to the Police." After rereading his statement to him, Theunisse undersigned the concept-statement.

Questioning of Theunisse by reporter Gaastra on May 12, 1980: He stated:

"You are asking me about the situation of the Magdalena. The Magdalena is so-called 3-isles ships, a small seagoing ship, and build in England in 1955. In 1978 – 1979, the ship is converted into a radio-transmission-ship, which required, among other things, more electric power. Therefore, two more generators were installed and larger fuel-capacity, by installing large extra tanks in the Hold for fuel and fresh water. More food storage by means of large freezers, and also more Crew space, Studio and Transmitter space. The ships length was about 55 meters, her BRT was 655, and she was in service from July 1979. The ship was painted white all over, and at the first impression, it looked dirty. This will not mean that it was badly maintained. The ship carried the Honduras Flag, and had a Certificate of Seaworthiness. The ship carried all the necessary navigation equipment, lights, safety, and life saving equipment, all new stuff. Because the ship was aground for 3 days, during not to pleasant weather, there were a few leaks now. Later, Tuesday Sept. 25, 1979, my diver found the two holes from missing rivets at the Port-chine, from which the ship was making water. In my contacts with the Radio-room at Dordrecht, Sept. 23, 1979, I was told that there was 2 meters of water, standing in the engine-room and around 1.5 to 1.75 meters in the Hold. In addition, I was told that these levels did not follow the outside water level, which leads to the conclusion that the leaks were not too large.

You are saying here, that when the ship was pulled off by the RP-9, it started to capsize, and that this could be a sign of serious leakage. But you have to see that differently: At the moment, the ship was pulled off; there was a large amount of water inside the ship. This water caused a large so-called, "Free Liquid Surface" Because a ship like this one has no longitudinal bulkheads, all of the water inside flowed immediately to one side of the ship, the moment it was floating again free

from the ground. This caused the list, and because of the leaks, now also from other openings on deck, it was going worse. Indeed, this was a very dangerous situation. From the information I had received, (the Police had installed a small pump, by which the water level did go down, but it got broken, after which the level raised again), I could conclude that the leaks in the ship were not too serious. Also by the message from Kamp that the ship started to move at High Tide: This pointed to, that the ship wished to float. The ship took in less water then the Tide was rising. Arrived on scene, I immediately put a 3" pump hose into the hold and started pumping. Because of all the floating rubble, the hose got blocked a few times, so one of my Crew went down to keep the hose free. Now, slowly, we got the ship empty. By arrival in Stellendam and later at Willemstad, the ship was empty because our onboard installed small pump could easily handle the incoming water.

In the harbor from Willemstad, I have installed two electric pumps, after consult with Adjutant Kamp, one in the engine-room and one in the Hold. I mark here that this was arranged for during the transport to Willemstad. Once these small pumps were installed, there was no more any danger of sinking. These two small pumps, I had bought the same afternoon for around f. 1,750-. In my salvage claim, I have not mentioned these pumps, or the costs. (Reporter marks here, that Colonel Spaanderman had told him that the costs for these pumps were around f. 400, - an Hour. Reporter is referring here to the report from Theunisse, page 4). That Monday afternoon is not spoken with me or by me about any costs, also not about these two pumps. On Tuesday, Sept. 25 1979, my diver did found the two small leaks from the missing rivets, and no other leaking damages from the ships bottom, except for the engine-room bulkhead were also a rivet was missing, but this was inside the ship and caused no leaking from outside. We replaced the missing rivets with bolts, nuts and gasket, were after the ship was A-okay. This on Tuesday, September 25, 1979. We have celebrated this event for a few minutes with the Police-Crew from the RP-28. After this, we removed our hoses from the hold and also the electric pumps. Than we shifted our position with Furie-2 to the engine-room of the ship, put a 3" hose in and started to pump out the rest of the water from the engine-room. After a short while, we found the little leak in the bulkhead. At that precise moment, I was asked to come to the Police office. My first mate put a marker over the stern of the ship, to check on the progress with the pump. At the office, Kamp told me that the ship was sold to Heuvelman, for f. 14,000-. Like I told you, I was a little confused by this and did not understand it. Without any calculations made so far, I knew that this was not a good deal at all.

For this, I refer to my report and the report from Berex BV. Everybody who is a little informed in the shipping business knows that a ship like the Magdalena will do f.100, 000- to f.200, 000- on the open market.” After rereading his statement to him, Theunisse undersigned the concept-statement.

On May 7, 1980, I, reporter Gaastra, have heard: Cornelis Harmen H E U V E L-
M A N — 26 years, director, living at Ouderkerk aan de IJssel, who stated:

“I am board member of the Steel & Demolishing Works, H.P. Heuvelman BV at s-Gravendeel, Harbor road 1. You informed me about the statement from my brother, Harmen C. Heuvelman on 23 April 1980, you have taken from him about the sale of the ship Magdalena. In my opinion, this statement is fully correct. My part in this transaction was larger, especially concerning the after sale. On Monday, September 24, 1979, I believe between 4 and 5 pm, we got a phone call from our brother in law, G. Timmerman. He told my brother that the Magdalena was taken of the sea and now laying at Willemstad. I believe to remember that Adjutant Kamp from the State-Police had called Timmerman. Short after this call, my brother and me went to Willemstad. Before we left the office, we had a look in the Lloyds Register. At the harbor, we met with Timmerman, members from the Police and Rijkkema from the Ships-Service. We went onboard of the Magdalena and had a brief look over the ship. That evening, Adjutant Kamp was not there. We made a tour on the ship with Rijkkema and others from the Police. The ship was a mess. I was surprised that with this ship people were at sea.

I did not get the impression that the ship was dangerously leaking, and in no way, it was close to sinking. There were a few small pumps onboard. I cannot tell if they worked at that time. In Hold nr. 2 was a little water, not much. I believe also a little in the engine-room. Our tour on the ship took about 20 minutes. After we left, we decided that Timmerman and also we, would make an offer on the ship. It was obvious that the Police would get rid of the ship. They were afraid that it would sink. As I said, I did not have that impression at all.

You are asking me, if I thought that, there were other candidates for the ship. This is always a surprise. You are asking me if Rijkkema had talked about prices. I answer you that he did not do so. That evening, my brother made the deal with Timmerman: Heuvelman would make an offer of f.14, 000- and Timmerman a supporting offer of, I believe, f.11, 500-. You are asking me, if I had the impression that the involved Policemen preferred that the ship would be granted to Timmerman. I answer you that with regard on the fact that he was first called by

the Police, this probably will be so, also maybe, because he was the nearest yard. I do not know if the civil servants could have known that Timmerman could not handle this ship.

- The next morning, Tuesday, September 25, 1979, there was a meeting at our office. Between 10.00 and 12.00 am, a call came in that the ship was granted to us. I believe it was Kamp, who called us with this message. In this meeting were gathered: My brother Harmen: My brother in Law, A. C. Jansen: Director J. Trouwborst: director P. van der Gaag: and H. Verbiest, salesman. This meeting was absolutely not after 12.00 pm. We at once called our Insurance, HUDIG-LANGEVELD at Rotterdam; by whom, we insured the ship. (Was September 26, 1979, after checking).

I can see in my diary that I was at our office in the afternoon from September 25 1979. That afternoon I had contact by telephone with ship wrecker V/d Marel at Zierikzee. We do business on a regular basis. We planned to sell the Magdalena to V/d Marel, and then buy the scrap-metal back from him. Therefore, I asked V/d Marel to come to Willemstad. We had a meeting with each other that evening. Adjutant Kamp was also with us. In the phone call that morning, Kamp had told, -I believe it was Kamp-, that the Officer of Justice had granted the ship to Heuvelman.

Again, we Heuvelman received a phone call that morning, September 25, 1979, that the ship was granted to us. That evening, I went onboard with V/d Marel. My brother has had contact with Theunisse, if we could rent pumps from him. We have spoken about the fact that Theunisse did a good job in stopping the leaks. When we were onboard, it appeared to me that a little water was still in the ship. I cannot remember if there were pumps working, I do not think so. Kamp spotted us when we went on board, and I was called to him. He did not agree that we planned to sell the ship to V/d Marel. I do not know why not, but I believe they did not go along to well in the past. I got the impression that he would be sure of it, that the ship would be demolished. I cannot guess why he was in doubt that this maybe could not be so with V/d Marel. After a tour on the ship, V/d Marel went to a restaurant in Willemstad, and I went with Kamp to the Police office. -At the office, I have spoken in length about the question if there were any debts on the ship. Custom is that a ship like this is made debt-free in a public auction. Kamp compared this deal of us with the example of an illegal catch of fish. He told us, that in such a case, they can sell the goods because otherwise they would go bad. He used this as proof for fact, that the ship was free of debts.

Later, it showed that the ship was not free of debts. Short after the transaction with V/d Marel, the ship was put under custody by order of the Court at Middelburg, on behalf of the Sea Towing Company Dijkhuizen at Flushing. Because V/d Marel is a relation from us, we deposit a bank-guaranty. Later, we had a correspondence about this matter, by our lawyer, with the States lawyer. Kamp had called V/d Marel and told them to stop the demolishing works, because of the custody. In the meantime, we had placed a deposit. Therefore, this message from Kamp was not necessary, but did caused meanwhile a lot of panic. The Bill of Sale contained a clause that for every day the ship was not wrecked, after 90 days after the date of sale, a fine of f. 1,000- must be paid. Our lawyer wrote the States lawyer that we would hold the State responsible for this.

The second case of not being free of debts of the ship was about the salvage costs. We received a summons for f. 80,000- from the lawyer of Theunisse, after which our lawyer wrote the States lawyer that we also would hold the State responsible for this. This, because of the fact that Kamp had told us that the ship was indeed free of debts. We received message that Kamp cannot remember this. He even denies that he ever has spoken with us about the sale of the ship. He, Kamp, claims that Adjutant Verveer conducted the negotiations. Verveer did not know a thing about it. Verveer assured us that Kamp and Pieters arranged everything.

I hand you over, copies from the two summonses. You are asking me about the example of the illegal catch of fish. I answer you that I had never heard about such an example. However, I could not see any reason to question a Policeman, representing the State in this matter. To my idea, Kamp could not do this, considering the debts; about we did not know anything. That evening, we did not talk about the salvage costs. In the evening of September 25 1979, on behalf of our Company, I sold the Magdalena to V/d Marel for f. 28,000-. Brother in Law Timmerman received a commission fee of f. 3,000-, ex VAT. You are asking me if the sum of f.14, 000-, which we paid for the Magdalena, is a reasonable price. This, in view of the valuation from Berex BV where a figure of f. 180, 000- is mentioned. I answer you that the price of f.14, 000- on that moment, and under those circumstances was a right price. That evening, I asked V/d Marel what he wanted to pay for the Magdalena. He answered f. 28,000-. Then I sold the ship to him. A Company with the accommodation and size like V/d Marel is able to work for lower costs. You are asking me if Heuvelman in relation to the transaction did give money and or goods to Adjutant Kamp and/or The Belgian Mission Community. I answer you that Heuvelman did not give money to Kamp. The

evening of September 25 1979, when I had a talk with Kamp at his office, he told me that he had the ships-bell, from the Magdalena, in his office. He asked me if he could keep the bell. I answered with "Yes". Kamp did not pay for this. Heuvelman, out of free will, and without being asked for, has given a sum of f. 500- to the Belgian Mission Community. This happened a few weeks after the transaction." After rereading his statement to him, C. H. Heuvelman undersigned the concept-statement.

On May 7, 1980, I, reporter Gaastra, have heard: Herman V E R B I E S T - 42 years, occupation sales clerk, living at Gouda, Who stated:

"On Tuesday, September 25, 1979, I was present at a board meeting from Heuvelman Steel at s-Gravendeel. I confirm that this meeting took place before noon.

During this meeting came the message that the ship Magdalena was granted to us. After rereading his statement to him, H. Verbiest undersigned the concept statement.

On May 1, 1980, I reporter Gaastra, have heard: Leonard Charles Martin Louis K E R K H O V E – age 64 years, director, living at Maasdam, Who stated:

"I am Owner of the Engines-Company-Kerkhove BV at Zwijndrecht. My activities are the buying and selling of ships and parts of ships, as well for scrapping as also for re-use.

You are showing me the letter, which on my behalf was sent on September 25 1979, to Theunisse. The letter is confirming the offer we made on the engine-room and deck gear, like winches, generators, masts and booms, etc, from the Magdalena, for the sum of f. 55,000-. My son, L. L. Kerkhove, who is also on the board of my Firm, undersigned the letter. In the past, occasionally I also did business with Theunisse. A day before this letter was send he phoned us, I am almost sure this was in the morning. My son handled the matter and offered the price. If I had been at the office, I would have asked Theunisse if I could buy the whole ship. In view of the description, that Theunisse gave us from the engine-room, our offer of f. 55,000- was perfectly normal. After our offer by telephone, this confirmation letter was sent the next day to Theunisse. Short after, we heard that the ship Magdalena was sold for f. 14,000- to Heuvelman. I was surprised. From press releases and from talks with Theunisse we learned what did happen with the

Magdalena. Like I told you, I bought and sold many ships in the past. On a regular basis, I also buy ships from the "Service of Dominions". The value of a ship depends on the possibilities of it, namely the possibilities for re-use. Many coasters like the Magdalena were converted to ships for the transportation of sand. As an example, I give you a Bill of Sale, between the Service of Dominions and we, regarding a Pilot ship build in 1949. I have learned from you that the Magdalena was built in 1955. A Pilot ship has lesser possibilities for re-use than a coaster. You can see that I paid f. 150,000- for this Pilot ship. In this trade, prices can vary widely. As an example, I show you a transaction of a ship that I bought for f. 17,000-. This ship was broken in two pieces on the Western-Scheld. V/d Marel, known by you, wished to receive a sum of f. 10,000- on top of the wreck, from the British Owner, for removal.

You point out to me that V/d Marel, some time after the sale of the Magdalena, had offered the engines of the ship to us for f. 5,000-, and that we refused this offer. I answer to you that this is not an honest comparison. When V/d Marel had called us immediately after the sale, I probably had offered him f. 55,000- for the engine-room and other parts. At the moment V/d Marel called me with his offer, the ship was almost wrecked and time was passed over the engines, which all had been flooded with salt water, and not taken care of, just standing in the open air. This is bad for the parts and causes a much lesser value, so I lost interest.

- You have showed me the taxation report from Berex BV at Rotterdam, dated November 12 1979. In view of my function, I can state you that this is a very reasonable report in every aspect. The amounts and values in the report are equal to today's' prices, while scrap-prices are lower at the moment. The report is mentioning a scrap price of f. 220- per Ton. I show you in my administration papers that the scrap value in August 1979 was f. 270- per Ton, and in September, it was f. 260- per Ton. In addition, you show me the report from the Ships-Service, in which a calculation is given for the scrap value of the ship Magdalena. The costs for scrapping and transport are given as f. 150- per Ton, which brings the net value on f. 70- per Ton. I have showed you that we received, at the end of last year, f. 250- to f. 260- per Ton. We collected these prices from Heuvelman and/or from Rijdsdijk-Holland, selling our scrap to them, which means that these Firms had still to make their profit on top of these prices. The costs for scrapping, storing and transport were f. 80- to f. 100- per Ton, so we made between f. 160- and f. 180- per Ton profit. The report of the Ships-Service speaks about f. 70- per Ton. This is far to low, no matter in which state the ship is in. In the report from the Ships-Service, dated September 24 and 27 1979, is mentioned the Deadweight of the

ship, 780 Tons, and the BRT, 330 Tons, this from the ships Certificate of Measurement. Every wrecker will look first to this certificate, but it is very possible that later, other parts and equipment are added to the ship, as it was the case with the Magdalena. The hull from Magdalena had a weight of 500 Ton. Every wrecker would have had paid in September 1979, at a normal auction, at least f. 70,000- for the Magdalena: 500 times f. 140-, apart from engines and other equipment. You told me that Heuvelman had paid f. 14,000-

I learn from you that in a letter from the Ships-Service the following is mentioned: "About the offers, made by Kerkhove and Bogenda, for the engine-room and other parts of the Magdalena, we have our doubts about if they were serious." I see this as an accusation, and I regret this. Also in this letter is stated that on during checks on various scrap yards, a lot of old and rusty engines and machines can be seen. In my view, the conductor of this letter does not know anything about this business. Even when these parts are not sold for re-use, but only are sold as scrap, a price is made, at this moment, of f. 180- per Ton. In September 1979, this price was around f. 225- per Ton. At 4) of this letter is stated that the valuation of Berex speaks in a "confusingly optimism". I tell you again that, if everything was "just" scrap, which was not the case, the value of the ship were still f. 70,000- When I was asked, around September 25 1979, what I was willing to pay for the Magdalena, I had found a sum of f. 180,000- reasonable. The facts given in both reports from the Ships-service, I think are not correct.

You have read to me, the facts and circumstances of the ship, stated in a report, dated September 24 1979, (Reporter: No. 607/79), Considering my years-long experience in this business, I can tell you that these facts and circumstances are not in the least disturbing. In such a case, installing of a small submersible pump will do the trick.

As a trader, I pity that I was not invited to make an offer on the Magdalena." After rereading his statement to him, L. L. Kerkhove undersigned the concept statement.

On May 2, 1980, I, reporter Gaastra, have heard: Jan Pieter O O M S - age 34 years, employee in the trading of ships engines and parts, living at Hendrik Ido Ambacht, who stated:

"Until April 1, 1980, I was employed as manager at Bogenda BV at Zwijndrecht. My main job was buying and selling of engines, engine parts and other parts from ships installations. -By order of the Director of Bogenda, Mr. Boer, I went on Monday, September 24, 1979, around 14.00 pm, to the harbor of Willemstad.

Around that time was moored there, the Magdalena. I arrived around 15.00 pm. Bogenda had received message from Theunisse, from his wife, that morning that the Magdalena was saved and was brought into Willemstad. -In the past, we have done business before with Theunisse.

It was mentioned that the ship was going to be sold, but not that this had to be done so quickly. In every day practice with these things, you have to be swift in action, because otherwise many buyers will show up.

-In the harbor, I was taken onboard of the Magdalena with the help of personnel from Theunisse. Before, I was on the tugboat from Theunisse. Theunisse had asked already a Policeman, who was busy with sealing off the ships entrances, if it was okay for me to go onboard, as a representative of a candidate buyer. At the same time, a Police boat came alongside, with Adjutant Kamp onboard. Theunisse did ask Kamp, if it was allowed for me to go onboard and see the ship. Kamp was not dressed in uniform, later I understood that he was Kamp. In my view, it was clear to Kamp then, that someone was here representing a possible buyer, who was there to see the ship. I received permission to enter and I have made a tour over the entire ship. - The situation of the ship, I can describe you as follows: The Magdalena was a so-called three Isles ship, with the size of a regular coaster. The Magdalena was a ship like the ones I see all the time in my work, although not optimally maintained.

A ship like the Magdalena, with valid Ships-Certificates, is worth f. 300,000- to f. 400,000-. Without these certificates and without a proper survey, as the Magdalena was moored there, the value was f. 80,000- to f. 100,000-. With sufficient time on hand, one can sell this ship and her various parts for f. 180,000-. You are asking me how serious the leaks were. When I arrived onboard, there was on the stern a small gasoline-engine driven pump at work. Just a little water came from the hose outlet. From the deck, I have looked into the holds; there was a very little amount of water. I have looked over the engine-room. Also, there was a little water. However, I do not see this as a problem and surely not as a danger.

We are talking here about a ship that had been grounded, at sea. Practice is that a few leaks are very possible in such a case, but these are easy to repair. Therefore, the leaks were not disturbing at all for me. My employer was interested in the engine-room of the ship and in the generators, who were installed onboard of the Magdalena. So, I have given the most attention to these parts. The Buy value of the engine-room was f. 30,000-. The Sale value can be f. 60,000-, this including the generators and the spare parts. During my tour on Magdalena, I have met Mr. Rijpkema, he, coming from the bow-engine-room and I, going in there. I had

always assumed that he was from Lloyds-Inspection. I did not speak with him, but I believe that he did recognize me. I assume that he understood that I was there for a commercial purpose.

In previous talks, we had sometimes talked over his work and mine.

That afternoon and the next day, I did not hear that the ship had to be sold very quickly. According to the appointment with Theunisse, my former employer Bogenda confirmed by writing our offer of f. 30,000- on the engine-room from the Magdalena, assuming that we were one of more candidate buyers. At the order from my former employer, I contacted with Mr. Jorissen, from Ship-Wrecker Rijdsdijk-Bos. He offered f 20,000- to f. 25,000- for the empty hull from Magdalena. You have let me read the taxation report from Berex BV at Rotterdam. I was about an hour onboard the Magdalena, during which time; I got a pretty good picture of the ship. I agree in every aspect with all parts from this report, with the remark that it will take about two years to achieve the prices mentioned in this report, for the various parts like engines, etc. In this business, we say, "The buyer is born all right; he just only has to show up".

-In the Berex report, two generator-sets are only mentioned as in the weight of the ship. (Distracted from the weight). If I had to write this report, I had put a price tag on them from f. 17,500-. I guess the writer had forgotten this. You have showed me the report nr. 607/97; in which Rijkema made a list from all of the damage on the ship, and the situation in which the ship was on September 24, 1979. When I am reading this, I am asking myself what is the significance from that stuff. When you are just planning the demolishing of the ship, who cares for a few leaks, that the engines are not working, and various other things, it does not matter anymore. If Bogenda could have bought the ship, we had immediately made the important parts free of water, had put new lub-oil in them, had let them run for a while, and would have dried the generators. In my view, it was not necessary at all to sell the ship that quickly. During my presence on the ship, small electric pumps were installed. This was sufficient. - You showed me also the taxation report from the Ships-Service. I do not like to speak about the scrap value because that is not my trade. As I told you, I did make an offer on the engine-room of f. 30,000-. In this report, they speak about a value of f. 4,000-, because the engine-room had been flooded. Well, so what? The value of the Radar set is not zero, but f. 4,000-, etc. Their valuation is not realistic. They did not know the facts. In my view, an expert cannot conduct such a report. In their résumé, they value the whole ship on f. 29,200-. I explained to you that we offered f. 30,000- for the engine-room, that the bare hull could have had been sold for f. 20,000- to f. 25,000- and that all other

parts at least had could be sold for something like f. 30,000-. In the letter from January 3, 1980, the Head of the Ships-Service writes that NO employee from Bogenda was onboard of the Magdalena. This was the case, they say, according to the Police, (Adjutant Kamp). As I stated here and now, I was indeed onboard of the Magdalena on September 24 1979. And for sure, our offer on the engine-room was serious all right. I do not like these insinuations, at all.

Also in their letter: "Scrap yards are full with these old and rusty engines". A real expert knows better. It is hard to find these old engines while there is a great demand for spare parts from these engines because there are many of them still in use worldwide. At 4) of this letter, they are speaking about a "confusingly optimism" from Berex. I surely do not agree with this comment. In fact, I think it is a disgrace, a scandal that a "Ships-Service" dares to write down this "valuation" of f. 15,000- for this ship Magdalena. Everybody known in this business will consider the Berex report as reasonable. The report from the Ships-Service is not worth the paper it's written on. As I said before, it is not realistic.

After rereading his statement to him, witness J.P. Ooms undersigned the concept statement.

Reporter notes here that he – after consult by telephone - had 10 written questions sent to the Officer of Justice at Amsterdam, Mr. Pieters, regarding the facts around the salvage and the Removal, (sale), of the Magdalena. These, by the mentioned Officer of Justice answered questions, are hereby part of this report.

In view of the fact that the enclosed letters contain facts, which can be of importance for the investigation, these letters are also added to this report.

INTERNAL AFFAIRS 's-HERTOGENBOSCH, Director of Police.

To the Officer of Justice, Mr. J. H. C. Pieters at AMSTERDAM.

's-HERTOGENBOSCH 04-17-1980.

Added: 10 Questions. Subject: Sale Motor ship Magdalena

Honorable Sir,

Following our conversation on April 10, 1980, have I, Inspector from Internal Affairs, assigned to the investigation about the sale of the motor-ship "Magdalena", conducted a number of questions. Incase the available space for answering is insufficient, you may add an extra page. I have conducted the questions without first consulting with you. If you find questions not relevant to the case, I would like

to hear that from you. To close with, I like to hear your opinion about the Removal of goods who had nothing to do with the committed misdemeanors.

Yours truly, S. Gaastra.

Districts Court at Amsterdam

To the Internal Affairs Group from the Procurer-General of the Districts Court at "s-Hertogenbosch, Inspector S. Gaastra.

Letter: 4-17-1980 Amsterdam April 28, 1980 Subject: 11 questions

The sale of motor ship Magdalena.

Dear Mr. Gaastra, enclosed your questions and my answers on them. Two remarks considering the whole thing. My viewpoint on Sunday, September 23, 1979 at 08.00 am, I have told you about. This viewpoint was still unchanged at 11.00 am, when the Adjutant, without my knowing, called for a tugboat, and it was exactly still the same at 12.58 pm, when the Adjutant called me via Scheveningen Radio. This call was short: No salvage order. If I said after that, "then I agree", I agreed with something else than a salvage order. If the Adjutant had given such a salvage order, he had to have it canceled, the moment he heard from me that I did not want salvage. I do not know what the Adjutant had agreed with the salvor. I did not know about the situation

Around 12.58 pm, from the ship: Already re-floated? Already signs that his action went wrong? Already the costs for a tugboat coming up, and because of that, trying on the last minute to cover up his action? A TV Crew was informed already, so I was told!

The order for Removal was of course only given for the ship "Magdalena". The rest of the goods would remain in custody and kept. I was highly surprised that afterwards, so I understand from your letter, goods are disappeared from the ship.

Yours truly, Officer van Justice, J. H. C. Pieters.

Questions to Mr. Pieters, Officer of Justice at Amsterdam

THE REMOVAL OF THE MOTOR SHIP "MAGDALENA"

On Tuesday, September 25, 1979 at around 14.00 Hours

Q. 1:

The investigation has shown that you had given the order to sell the motor-ship Magdalena. Art. 117 SV, says that goods will not be Removed etc. then after given consent for doing so. In your letter from December 3, 1979, to the Procurer-General from the Districts-Court at Amsterdam, you wrote, "For me, the situation

that Sunday, was as follows: the ship should stay there as scrap, and the radio-transmitter would be lifted out or destroyed on the spot. That was the only order I have given.”

Was the ship indeed “under custody” or could it be seen as an abandoned good, that Sunday morning, September 23, 1979? If the ship was still “under custody”, who were the first authorities to give consent for the Removal, according art. 117 Sv.?

A. Mr. Pieters:

Sunday morning September 23, 1979, the situation was indeed so that the ship should stay there “under custody”, after the Radio-Control-Service had removed the important parts from the Transmitter, and did have the rest destroyed. That was my instruction that morning around 08.00 a.m. to Mr. Roth from the PTT. Incase I have had the plan to have the ship being saved; the instruction for destroying would have been senseless. On Saturday September 22 1979, I had heard already some information about the value of the ship and the cost of salvage, if that could be proved possible: (Salvage costs f. 30,000-, value ship f. 15,000-.) The order to sell the ship, I can give because a particular kind of goods are not fit for storage. After the performance from Adjutant Kamp, and the ship was arrived at Willemstad, this order was given.

Q. 2.

Did you know who the Owners of the ship were?

A. Mr. Pieters:

No.

Q. 3

According you above-mentioned letter to the Attorney General, you were informed on Monday September 24, 1979, by Adjutant Kamp about the situation of the ship. Which information did you exactly receive? (Please enclose notes).

A. Mr. Pieters:

According my notes: 12 Tons water an hour; 5 Tons in engine-room, 7 Tons in Holds; costs for emergency repairs f. 50,000-; necessary transport with tugboats, pump boats. Maybe no permission for transport from Department of Water, number of weeks in dry-dock f. 750,000-. Scrap value around f. 10,000 to f. 15,000-

Q. 4

The 3^e point from Art. 117 Sv. speaks about goods not fit for storage a longer period of time. Was your impression –in view of the received information- as such that the ship had to be sold within 24 hours?

A. Mr. Pieters:

The information was as such, that every hour of pumping would cost several hundreds of guilders, being money wasted, that before 14.00 hours that Tuesday, I had to decide because the (highest) bidder was not available afterwards, and indeed the ship was certainly not fit to keep in storage. I have referred to the 3^e point from Art. 117-Sv, in connection with the Consent from Court for the Removal, but according the same info, this was a pure case of “unfit for storage”.

Q. 5:

In your before mentioned letter, dated December 3, 1979, to the Attorney General, you wrote: “The costs for pumps to prevent the ship from sinking; the probably refusal from Department of Water for transporting the ship to a place for emergency repairs; the costs for this repairs (f.50, 000-, to make the ship fit for transport); the costs for tugboats”.

You received this information on Monday, September 24, 1979 from Adjutant Kamp. In this paragraph, I think, are some unclear parts, who could prevent a quick decision for the Removal of such a good “under custody” – also taken into account, the salvage costs and the possible right on retention from the salver-

The moment you took the decision, according to my information, the ship was safe and tight and did not need pumping any more. Why would Department of Water refuse permission to transport the ship? The ship came from the North Sea without any problems or danger. Obviously, Rijkwaterstaat gave permission to transport, after the ship was sold. The emergency repairs for f. 50,000-, I did not found in the statement from Rijkkema, (Ships-Service) or Delhaas (State-Police). Considering the (short) time spend and the absence of a diver, one can say that the investigation onboard the ship, from Rijkkema was not a careful one. What is your view on your decision for the Removal, considering these facts and circumstances?

A. Mr. Pieters:

In the second paragraph, you speak about salvage costs: Since I did not give a salvage order, for me did exist also no right on retention for anybody. That the ship was safe at the moment of my decision was absolutely unknown to me. In that case, I would not have given the order for Removal, without the consent from the

Court. Regarding the approval from Department of Water for transport, I only can repeat what is told to me. I had to assume that the situation of the ship has gotten worse. The approval of Department of Water later on, was of no use to me than. That Rijpkema was not careful in his investigation of the ship is not showing in his report. This was the report from an expert. On the grounds of the information given to me, supported with an expert's report, for which I myself had asked for, I would even now order the Removal.

Q. 6:

The Policeman Delhaas, on September 25, 1979, around 11.30 am, handed you the report from Rijpkema (1 page). When he left your office around 13.15 pm., you knew that there were two candidate buyers. You told Delhaas that you could not decide yet, because you wished to consult first with the Attorney General. According to your notes, you did give the order to sell the ship on 13.30 pm. Whith whom did you consults, and what experience or authority had this person?

A. Mr. Pieters:

I can give the order for Removal on my own, but I wished to consult before with a third party. Because of absence from Mr. Messchaert, I talked with Mr. Van Renesse. For the experience or authority regarding the Removal of goods, I have to decide based on information from others.

Q. 7

According the statement from Delhaas, you asked him to ask Rijpkema to put his findings from his inspection and the figures in an extended report. Was there any use for such a report, since you short after Delhaas left, gave the order for Removal? (The extended report is sent to you on October 11, 1979)

A. Mr. Pieters:

The figures were given to me by telephone; I missed them in the report. That's why I asked for a more extended report.

Q. 8:

Can you explain how you did handle in the past with ships placed under custody?

A. Mr. Pieters:

In the past, I handled with ships and other large objects as ordered in the Rules, with one exception. Normally: Storage in a storage dock and in care of the Service of Dominions and after consult with the Inspector of this Service, asking for consent to Removal incase it showed that a ship proved not to be fit for storage.

The exception: The ship stayed in another port, with the Owner as Keeper, to allow him doing maintenance, this is not possible by the Dominions.

Q. 9:

The jurisprudence shows that, I cite, “at the sale of goods under custody, the government has to take in account the interests of the Owner. She must sell only for a reasonable price. By selling for a price far below the value, the Government is acting unlawfully with the possessions of the Owner.” (HR 20-12-1940 NJ 1941, 365) The fact that only two candidates to buy were invited (on top of it, both of them not able to demolish the ship at there own yard), I think, is a sign, that there was given little publicity to the imminent sale. Mr.Tazelaar wrote in his letter from February 20, 1980 to Mr. Kroeskamp (both from the Department of Justice), “Theunisse succeeded (he claimed) during that day (Tuesday) to provisionally repair the leaks. This leads (in retrospect) to the question if the ship had to be sold that quickly. Because acting so quickly in this case has greatly influenced the sales price.” Did you consider this aspect before you decided to sell quickly?

A. Mr. Pieters:

I did not know that the ship was provisionally repaired. Nobody told me about that fact.

In general, I did not consider this possible. At a quick sale, one will not get the highest price, correct. I had received a price on Saturday, who did not differ much. I did not know that both candidates were not able to handle the ship. Again, I was told that every minute of delay would cost much money. A quick decision was necessary. Information and figures was given. I received a report from an expert. I was putting the Government on high costs if I was waiting too long.

Q. 10:

Mr. A. P. Mensert Spaanderman, districts commander from the Water-State-Police at Dordrecht stated that he knew, that Monday September 24, 1979, that the Adjutant Kamp in his function, as a member from the “Belgian Mission Community”, had frequent contacts with Timmerman, one of the two candidates. Short before, during or after the contact with you on Tuesday September 25 was spoken about this relation. Kamp stated himself that Timmerman was a friend of him. Heuvelman is married to a sister from Timmerman. Did you know anything about these relations?

A. Mr. Pieters:

I did not know anything about these relations from Kamp with the buyers. Nobody had informed me about it on Monday or later. I cannot say if it had made me suspicious, if I had known it. As far as I can remember, which is far, I did not have any contact with the Districts-commander.

Q. 11:

About the situation in which the ship Magdalena existed, the following statements were given:

Sergeant-Major Slabbekoorn:

“You are asking me about the situation in which the Magdalena existed, that Monday afternoon (09-24-1979), if there was still the danger of sinking, or if there were other circumstances to be concerned about the ship. I answer you that the leaks in the ship were not as such that one could speak of any danger. Two small installed pumps were easily able to handle the water. A very little amount of oil-sludge came out with the water, but this was insignificant. Otherwise, I had ordered Theunisse to pump the water into a bilge-boat.”

Salver Theunisse:

“The member of the Ships-Service did value the Magdalena on f.15, 000-, on September 24 and 27, 1979. I think this is laughable. To me, this report contains one lie after the next. To begin with, it is not necessary to have the ship hauled out to do emergency repairs. The report says that the ship had heavy damage on her bottom. They could not possibly know this, because no one of the Ships-service went UNDER the ship. On September 24, 1979, nobody could know about the exact damage. I have replaced two missing rivets in the Port-chine on September 24, 1979, after which this ship was safe and waterproof. When the Ships Service states in their report, dated September 28, 1979, page 6, par. 3; that the costs for these repairs, in order to have the ship laid-up amounts to f.50, 000-; I tell you that this is a lie. As I said, we fixed the leaks on Tuesday, September 25, in a few hours time. With a little more preparations, the Magdalena was fit and safe to be laid-up for at least a year, without any danger of sinking. See this same report on page 1: “Leaking in the Port-chine under Hatch no. 2 due to heavy damage”. This “heavy damage” was simply two missing rivets, nothing else. The whole of the report is filled with remarks, conclusions and so called facts, which are not true. I wish to add furthermore that this report is written and dated AFTER I had hand over my salvage report and salvage claim to the Police.”

1^e Sergeant from State-Police E. Knoop

“During the transport from Willemstad to Zierikzee (on September 26, 1979), there was no need to pump on the ship. On September 27, 1979, I was with my colleague Brouwer again at the yard from V/d Marel. He told us then that the ship was not leaking any more. He did not need to pump. I did not consider the situation of the ship as such, that it had to be quickly demolished.”

Sergeant of State-Police C. W. Brouwer

“I did not consider the situation of the Mi-Amigo as such, that it needed to be sold quickly. Theunisse managed to repair the leaks on September 25, 1979. The colleagues thought it a stupid low price, for which the ship was sold. In my opinion, in view of my experience in shipping, the ship could have had been sold for a much better price. This, considering the amount of equipment onboard and the size of the ship.”

Sergeant of State-Police J. van der Sluis

“Before I came in service as a State-Police member, I was working as a Merchant-Marine-Officer. During my education at the Mariners-School at Terschelling, I served on many trips with a salvage boat. In that time I received several times, percentages of salvage rewards. Therefore, I can say that I have some insight in the value of saved ships. With this knowledge, I can tell you that it appeared very strange to me that this ship was sold for such a low price.”

In regard of the above-mentioned reactions, I ask you your comment on the information that was given to you, and on your decision taken, based on this information.

A. Mr. Pieters:

Answered already in 9 and 10. Why did not Mr. Delhaas or somebody else, told me anything, now it seems, afterwards, that there was no need for a fast sale, for a too low price; and then afterwards everybody is expressing there surprise on paper.

Districts Court at Amsterdam

To: the Internal Affairs Group from the Procurer-General of the Districts Court at s-Hertogenbosch, Inspector S. Gaastra. May 12. 1980 Amsterdam, Subject: motor-ship Magdalena. Dear Mr. Gaastra,

Again, I sent you the concept-statements with my comment on them. I mark here, that this is the first time that I have seen statements from others in this affair. Which means that until now, I was reacting only out of my own position and knowledge in this matter.

Yours truly, Officer of Justice J. H. C. Pieters

Comment on the Statement from Adjutant Kamp.

Comment to his answer on Q. 3:

Saturday afternoon, September 22 1979 Mr. Roth from Radio-Control, was complaining to me, about having not enough people to go to the ship for dismantling the transmitter. About this matter, I had contact around 08.00 am with Sergeant-Major V/d Ploeg when he called me. The order for Mr. Roth was to destroy what not could be taken with them. This would be a senseless order, damaging for the Government, if there was still an order existing for salvage of the ship.

Comment to his answer on Q. 6

There was no salvage order given, to nobody. The State-Police, together with Mr. Roth would keep me informed about the situation of the ship. After that, maybe a salvage order could have had been given, or not.

Comment to his answer on Q.7

If I compare the words from Kamp: "I did not give an order"; with the view from Theunisse: "After 4 telephone calls, I had a salvage order from Mr. Pieters"; I conclude that Kamp for sure did say more during this telephone calls, then is showing now in these questions and answers.

Comment to his answer on Q.8

I fail to see, how in his unauthorized pulling on the ship, on his own initiative, one can see a salvage order. Mr. Roth did not understand a thing from it.

Comment to his answer on Q.9

In this answer, he says that the salvage order was given from the Districts-office, on September 21, 1979. I do not understand this, also not the sentence: "The officer of justice and the districts-commander didn't say that the ship should no longer be saved". This salvage order was never given.

Comment to his answer on Q.13

His answer to this question is clearly nonsense.

Comment to his answer on Q.14

If the Adjutant is remembering so well my disagreement about the coming tugboat and indeed understood that I did not agree, He had to have had canceled the whole thing.

Comment to his answer on Q.17

This question and answer do reflect the truth.

Page 15: Adjutant Kamp passed both offers to me. Mr. Delhaas would bring me a report on Tuesday morning after my request to Kamp. I had asked for this report, to have grounds for consent for Removal of the ship. In spite of the opinion of Mr. Spaanderman, I do not believe, I have spoken with Mr. Rijpkema. I still think Mr. Kamp gave me the information; he must have had contact with Rijpkema. How else can he tell me about things as: the storage harbor was full, the costs for repairs, etc.

Overseeing the matter, I can state clearly, that because the alarming information about the ship from Adjutant Kamp with or without the help from Rijpkema, I was moved to use my authority, laid down in Art. 117 SV; to give consent for the Removal of the ship, which was causing great damage for the State. Normally, I would have given order to bring the ship into the care of the Service of Dominions.

On April 24 1980, I, inspector Gaastra, have heard: Binne R I J P K E M A - 51 years, expert at the Ships-service, living at Hendrik Ido Ambacht, Who stated:

"I am in service of the department of Traffic and Water, DGSM. My task is the inspection and taxation of ships in which the Government is interested for any reason. This task contains things like making taxations and inspections on ships for Government-guaranteed credits and representing the Government in cases of damages on Government property / private ships events. In the past, we did also inspections on ships in relation to the Government-financed demolishing of surplus ships.

On Monday, September 24, 1979, our Service received a phone call from the State-Police at Willemstad. In my notes, I can see that I was supposed to go to this office, to meet with Adjutant Verveer. I went to this office right away. I arrived at

15.00 pm. In the Company of a young Policeman and Mr. Delhaas, we went to the harbor. In the Company of a Policeman, I have inspected the ship as far as possible. You are asking me, if I have met there Mr. Ooms from Bogenda. I answer you, that I do know Mr. Ooms, but that I cannot remember seeing him there. I also cannot remember if I have seen Adjutant Kamp, who I know also, on the ship that afternoon.

-My task was that afternoon, to examine the situation and condition of the ship and to make a report. You are asking me, if onboard, in the Police office or in the harbor, were any people who asked me to make a valuation on the ship as low as possible, in order to have it sold as quickly as possible. I hear from you that the Districts-commander had spoken to you in such words. I state here that no one has tried to advise me in that direction. I do not remember this. I was around 2 hours onboard of the ship. I have made a tour over the whole of it, as far as possible. My findings are afterwards put into a report (nr. 607/79) from Mr. Delhaas, at the Police office. Now, I see in my notes that I was only 1 hour onboard of the ship. I did not meet Theunisse onboard, who I know personally.

You are asking me if I have given info about quantities of leak-water (reporter marks here that Mr. Pieters told him, according to his notes, that on Monday afternoon, he received this info by telephone, about "the tons of water an hour"). I tell you again that I did not give this info, because I did not know this. On your question if it is possible to give these quantities in inches of level, I answer you that this is very difficult, if not impossible. I tell you that I went down into the Hold, where I have spotted leakage. This water came from down under somewhere.

In the above-mentioned report (607/79) are written, a number of facts and observations, together with the state of the ship. As conclusion is written, that I thought it necessary to bring the ship as soon as possible to the closest scrap yard. Also, "because of the continuing leaking of the ship for which pumping is necessary, there will be pollution of the surface waters." This last point made me to decide for demolishing.

You tell me now, that a Policeman has stated to you that the pollution was insignificant.

If it had been worse, than a bilge boat would have been used. I point out to you that this bilge boat would also have had cost money. I never have spoken about the short notice on which the ship had to be moved to the closest scrap yard. This was not my task. You are asking me if the leakage and the condition of the ship was such, that a quick sale was necessary, meaning a quick Removal by the Government. I answer you that I have never seen such a quick sale of a ship under

custody. I had expected a sale within a week or so, with the remark that in that case the costs for pumping and guarding would have had been raised.

You ask me if the ship could not have been transported to the storage harbor at Rotterdam. This in view of the fact that the ship already was towed, with pumps working, from the North Sea, via Stellendam to Willemstad. The same question was asked to me on Monday (09-24-79). I knew, from my work, that there were already several ships laid-up and that there was shortage of space. In addition, before this transport, the ship must be repaired first. This means a haul out, which costs a lot.

That Monday afternoon, I think, on somebody's request, I made contact by telephone with Ships-wrecker Timmerman at Ooltgensplaat. Also, I made a call to Heuvelman at s-Gravendeel. I have asked them to come and maybe make an offer on the ship. These contacts were between 16.00 and 17.00 pm. When I called them, I got the impression that they knew nothing about this ship. I have waited at the Police office for Timmerman, after he arrived; we went with his car to the harbor. After Heuvelman had arrived, we went onboard of the ship. Kamp and Verveer were not present with this.

In the company of Timmerman and Heuvelman, again I made a quick tour on the ship.

In my presence is not spoken about any prices. Now, I state that on the return trip to the Police office, I have spoken in a casual manner with Timmerman about the possible price. I have told him, I was thinking about f. 25,000 to f. 30,000-. Timmerman thought about f. 20,000- to f. 25,000-. Heuvelman and Timmerman asked me if they were the only candidates, which I have confirmed. This because they were the closest yards to Willemstad. It was known to me that they had to make their offers to Mr. Verveer.

I do not know about the time for that. Offers are made in writing mostly. You are asking me if it belonged to my task to have contact with candidate buyers for the ship, and to speak about prices with them. You are pointing out to me that the Police members Colonel Mensert-Spaanderman, Adjutant Verveer, and Adjutant Kamp, at that time, had already taken distance themselves from the case and were not there any more. I answer you that this did not belong to my task. You are asking me, if I have behaved unlawfully as a civil servant, acting as an expert, by only having two candidates invited to the possible sale of the Magdalena, meanwhile knowing that there would have been more candidates. Now you put it like this, I must say that I that afternoon (9-24-1979) have gone too far.

On your question, why I have spoken with Timmerman, and as far as I know with Heuvelman About the sale of the Magdalena: I answer you that Timmerman is a friend of me. He arranged for me a storage place for my pleasure boat in a barn at Ooltgensplaat, for a price of f. 25- and/or a bottle of Gin.

My relation with the Adjutant Kamp comes via his work for the Belgian Mission Community. When certain ships were taken out of commercial traffic and bought by this Community, with the consent from my Department, I went onboard to check if it were indeed these ships, and to ask in what way they would be converted. There I have met with Kamp. Later, I have learned that the ships were converted at Ooltgensplaat. -You are asking me what exactly my job was that Monday afternoon (9-24-1979). I answer you that I do not know that. I did not know that my report would be send to the Officer of Justice, the other day. I regarded my report only as a recording of my findings. What the purpose was, and the value that they were adding to it, I did not know. On your question, who has asked me to make contact with Timmerman and Heuvelman, I answer you that I do not remember that any more. Maybe it was my own idea. In my presence, no one made a remark like: "The wrecker must be somebody of the Church from Kamp", or words like this.

-On September 27, 1979, at the harbor The Val at Zierikzee; again I was onboard of the Magdalena. The day before, I had heard at the office that the ship was sold for f. 14,000- to Heuvelman. I was disappointed about the price, I had thought about f. 25,000- to f. 30,000-. After my second inspection, on request of the State-Police, I have made a report of inspection and valuation. In the conclusion at 5), I wrote that the scrap-value was estimated on f. 15,000-. I have to say now that I was influenced by my knowledge of the sales price. I also have seen the taxation report from Berex at Rotterdam, dated November 12, 1979. In this report, the scrap trade-value is estimated on f. 180,000-. Because of this report, I had to make another report in which I made a valuation of the scrap value of the Magdalena. This last report comes to a value of f. 29,200-. Also I have seen the biddings from Kerkhove (f. 55,000-) for the engine-room etc. and from Bogenda (f. 30,000-) for only the engine-room. I mark here that a valuation of a ship is a very personal thing. I cannot explain why the values like f. 29,200- and f. 180,000- are so far apart."

The questioning of B. Rijpkema was ended at 19.10 pm.

After rereading his statement to him and after he confirmed, he undersigned the concept-statement. (Reporter: see second statement.).

On April 23, 1980, I reported Gaastra, have heard: Jonny Cor R O T H - 49 years, Chief Detective from PTT, living at Nederhorst den Berg, Who stated:

"I am a member from the Radio-Control-Service, PTT, at Nederhorst den Berg.

On Friday, September 21, 1979, around 14.30 pm. I went, on order of the Officer of Justice, Mr. Pieters at Amsterdam, onboard the buoy age-ship Delfshaven and sailed out to the sandbank Aardappelbult in front of Goeree. Over there was entered into the territorial waters and grounded, the transmitter ship Magdalena. Onboard, the Crew was arrested. Mr. Pieters had ordered me - via Scheveningen Radio or via the Radio room at Dordrecht- to disable the transmitter and to take the oscillator with me. This is happened Friday afternoon. The transmitter was not working anymore because in the Hold was water and the generator was flooded. The transmitter was less than 6 months old. The estimated value was f. 250,000.

On Sunday, September 23, 1979, I together with two colleagues, onboard RP-9, sailed out, back to the Magdalena. That Sunday morning, I had contact by telephone, on the Stellendam Lock, with Mr. Pieters. This officer of justice had ordered to destroy the transmitter; insofar we could not take it with us. In addition, he ordered us to dismantle the Studio-equipment and take it with us. Mr. Pieters told me that the ship could stay there as far as he was concerned.

-You are asking me about the condition of the ship and the equipment onboard. I was in service for ten years as Radio-Officer with the Merchant Marine. After that I went into pleasure boating. I am very interested in the seagoing shipping. In my opinion, the ship was seaworthy before the grounding.

The Owners of the ship: Germain Boi, born at Lissewege, Belgium on 03-02-1922, and Patrick van Acoleyen, born at Dendermonde, Belgium on 11-20-1954, do not install a valuable and almost brand-new transmitter-installation onboard a rotten, not seaworthy ship. Official Documents exist, which show in my opinion that the ship was insured at Lloyds-London, for the voyage from a port in the Mediterranean to Rotterdam. After the grounding, the ship was leaking. How bad it was could only been established by divers, or a haul out. The ship looked dirty, but I emphasize here that this had nothing to do with her seaworthiness. I went down several times into the Holds and I did not found cement patches or something like that. I am convinced that the thickness of the hull was sufficient. There were few damages visible on the outside. I am sure that hull thickness measurements would have proved that the hull was according the Rules. Onboard were many valuable items like: Steering gear, Deck winches, Several Auxiliary Engines and generators, Compasses, Clocks, Lanterns, Brass portholes, the ships telegraph, Radio sets, Photo equipment, Kitchen gear, etc. etc. In my view, this kind of stuff was an

important part of the value, if the ship was sold for scrap. It surprised me very much that the ship was sold for only f. 14,000-.

I do not believe that the condition of the ship was such that it had to be sold within this short time. The goods that we took from the ship are accounted for on a list of "Goods taken in custody". I mark here; that after we arrived onboard of the Magdalena, we had carried out the order from the officer of justice, which was the destroying of the expensive transmitter with the use of a sledgehammer. When we had finished this, they told us to stay onboard because that a salver was underway to the ship. They came to try to pull the ship afloat again. After a while, about half an hour, somebody decided to try to do this with the RP-9. After a while, this succeeded. Theunisse did the salvage itself. We have had made things more difficult for him I guess, by pulling the ship off. If I had known that they have had the ship saved after all, I would not have the transmitter destroyed." After rereading his statement and he confirmed, witness J. C. Roth undersigned the concept-statement.

On April 23, 1980, I, Inspector Gaastra, have heard:

Harmen Cornelis H E U V E L M A N — age 31 years, director, living at Ouderkerk aan de IJssel, Who stated:

"I am board member from Heuvelman Steel at s-Gravendeel, Havenweg 1. On Monday afternoon, September 24, 1979, I got a phone call from my brother in Law Timmerman. He told me that he just got a call from the State-Police, who had told him that this ship from Radio Mi-Amigo, had to be sold for demolishing. The ship appeared to be in a sinking condition. Rumor was that the ship would be sold the same evening already, and must be transported the next day. Because of this call, I went to Willemstad together with my brother. We arrived there between 17.00 and 18.00 pm. We have met some people there who I did not know, except Mr. Rijpkema and Timmerman. Adjutant Kamp should also be there but did not show up. We did a quick tour over the ship. Compared to other ships, there was little of interest on the ship. The ship was leaking, and it was in chaos. If I remember well, there was one leak in the Hold and another one in the engine-room. At that moment pumps were working. I've heard from Theunisse that it was worse before.

-That evening, we agreed, my brother and brother in law, and me, that we would make an offer and Timmerman a so-called supporting offer. We thought, and hoped, that we were the only candidates for the ship, this because of the lack of

time. That Monday evening, my brother made an offer, by telephone, of f.14,000- for the ship to a Policeman at Dordrecht, (Reporter: was Verveer), after some time followed by the supporting offer from Timmerman. To prevent that they would take more time for selling the ship, we gave them a time limit. This is normal in this business. We were afraid that more candidates would show up, like V/d Marel or others.

-We had the impression that it was not that bad with the ship. Just a few pumps and some guarding would do. The leaks were not as such that the ship could not been transported. But I could imagine that the Police would like to have it out of their hands. The next day, September 25, 1979, around noon, we got a call that the ship was ours. Who called I do not know anymore. They told us that all costs from now on were for us; also for the work that Theunisse was doing at that moment. After that, I did not have anything to do with this matter. My brother can tell you more." After rereading his statement and he confirmed, witness H. C. Heuvelman undersigned the concept-statement.

On April 21, 1980, I, Inspector Gaastra, have heard:

Marinus V A N D E R M A R E L - 58 years, director, living at Nieuwerkerk, community Duiveland, Who stated:

"I am owner from the Demolishing and Salvage Company v/d Marel BV at Viane, community Duiveland. On Tuesday September 25, 1979, I got a call from Kees Heuvelman, co-owner from Heuvelman Steel at Gravendeel, Havenweg 1. He told me that he had a coaster for sale and asked me if I was interested. During the call, I learned that it handled about the ship from Radio Mi-Amigo that was grounded at sea, at Goeree. Heuvelman told also that the ship was damaged and leaking but that Theunisse had made repairs and had the leaks stopped. Two times before, I have demolished Radio-ships, which I had bought from the Service of Dominions. On request from Heuvelman, I went to Willemstad that afternoon. In the harbor, I have visited the Magdalena in the Company of my son and Kees Heuvelman. We were carried to the ship with a boat from the State-Police. I had had a look on the ship. I remember that there was a pump running. There was a hose hanging outside, with water running out of it.

The same day, I have bought the ship from Heuvelman for f. 28,000-. I hand you over, a copy from the Bill of Sale. I was told that I had to transport the ship the next day already to Viane. Because of the Tide, this yard dries out twice a day. A ship with leaks in it cannot sink there. It will float there with incoming tide, but is

grounded on the outgoing tide. Also, I was told that the ship had to be demolished as soon as possible. The ship was in chaos and dirty. In the hold was floating wood, oil drums, and stuff gone badly out of the freezers.

The next morning, September 26, 1979, we went with two tugs to Willemstad. We had picked up the Magdalena and were underway; via the Volkerak Locks to the harbor "Val" at Zierikzee. I had to go there first because the tide was not right to enter the yard.

On this trip, we were convoyed by the RP-9 from the State-Police. In addition, there were Policemen onboard of the Magdalena. I did not have permission from Department of Water for the transport. I never ask for such permission. I would also not have done so, if I had to have the ship transported to Rotterdam or Amsterdam.

That Tuesday evening I was told already that records and tapes, which were still onboard, were not included in the sale. Heuvelman had also told me that some stuff like, life buoys, compass compensators, stainless-steel wire and two small compasses were not included in the sale. In the Volkerak Lock, the records and tapes are taken of the ship. Who did this, the Police or the PTT, I do not know. When we left Willemstad that morning, there were no pumps on board, not needed also. We had taken a pump with us, but we did not need him during the transport. A few days after the transport, somebody from the Police called me, from Dordrecht or Willemstad, to tell me that former Crew-members would show up, to take there personal belongings from the ship.

Now I note that on September 26, 1979, at the arrival in the Val, we had to pump on the ship because the ship got list. Then, later, I was called again, that I could not take anything of the ship. After a few days, Crewmembers showed up to take their stuff from the ship. A Civil Servant was with them to inspect. After that, I was allowed to transport the ship to my yard at Viane. Short after, custody was placed on the ship, on behalf of the Firm Dijkhuizen at Flushing, who claimed money from the ship. Because of that, I called Heuvelman. He did put a deposit from f. 10,000- on a bank. I do not know if Adjutant Kamp was involved in this. Later on, Kamp showed up onboard. He has taken stainless-steel wire with him. You ask me were the life buoys gone. I answer you that I do not know. I also have never seen the lifeboat compasses. The ships-bell, about which, you are asking me, I have not seen. I have also wrecked the Radio-ships from Caroline and Scotland, but also then, the bells were missing. The custody was lifted a few days later. After that, I have wrecked the ship. Some stuff, like a TV set, distress signals, a compass and

the steering wheel, I've sold. I still have a few lanterns left. That is all I can tell you about the Magdalena.

To end with, I mark here that it is not understandable for me that –at the moment they decide to sell the Magdalena- I was not invited as a candidate buyer, together with other wreckers. I know that the first, who was invited by the Police at Willemstad, was Timmerman. I assume that a member of this Police office should know that a ship like the Magdalena couldn't pass true the Lock at Ooltgensplaat, in front of the small yard from Timmerman. First, I was mad because they did not invite me for the sale of the Magdalena. It is perfectly normal that I bought the ship the next day, 09-25-1979, for twice the amount of money.

At my yard are this moment two ships waiting to be wrecked, both of them were under custody. Both of them are leaking. As I told you, we do not need to pump on these ships because of the Tide. Coming Wednesday, another ship will be sold by Public Auction. In my opinion, they had to have had done so with the Magdalena.” After rereading his statement and he confirmed, witness M. V/d Marel undersigned the concept-statement.

On April 18, 1980, I, Inspector Gaastra, have heard:

Gerrit Korstiaan T I M M E R M A N, age 45 years, occupation ships wrecker, living at Ooltgensplaat, community Oost-Flakkee, Who stated: “My yard is at Ooltgensplaat. From within my work, a few years ago I have had my first contacts with the Belgian Mission Community. First, I wish to tell you about the beginning. In the year 1971, an engineer, Mr. P. Boogaard, approached me, from the Ships-Service, from the Department of Traffic and Water, Inland Shipping Division. He asked me if I was willing to help to export ships for a Development Project for Suriname. Boogaard was asking me this in his function at the Department. Also was involved in this Project, Mr. H. E. Overbeek, and Head of the State-Police Division at The Hague, now retired. Both men stood in contact with Dr. J.D. van Polanen, Secretary from Suriname.

To keep a long story short, I can say that in that time I was an intermediary in the sale of ships, which were taken from the Dutch fleet, with Government money, and transported to Suriname. I guess that in that time I came also in contact with Adjutant Kamp. The Belgian Mission Community, from which Kamp is Secretary, got the consent from the Department a few years ago, to buy two ships from those, which were taken out from the Dutch fleet. Kamp had asked me that time if I could do the taxation on the ship “de Eben Haëzer” for the scrap value. Later I did the

same on another ship. Later, an advertisement was placed in the Magazine from the Belgian Mission Community for volunteers to do work during the conversion of the ships. A number of people from Ooltgensplaat signed on for this project. I promised then to do the crane work for them. Adjutant Kamp was coordinating the works, together with Mr. Zuidijk. The work was done in the harbor from Ooltgensplaat, with the use of tools from my yard. Everything without any payment or something else. It was done from out our Believe. In that time, I became friends with Kamp. Kamp did never approach me for anything else. In the time, I had contact with engineer Boogaard. I have met also Mr. Rijpkema. Occasionally, Rijpkema was inspecting ships at my yard. In addition, Rijpkema inspected the ships that went to Suriname.

-On Monday, September 24, 1979, around 13.30 pm. Kamp called me. He told me that they had taken the Radio ship Mi-Amigo from the North Sea. That this ship was now at Willemstad. In addition, Kamp told me that the ship was leaking and that it had going to be sold, because of the danger of sinking in the harbor from Willemstad. Kamp asked me if I was interested in buying the ship. When I heard about the dimensions of the ship, it was clear that it could not pass true the Lock from Ooltgensplaat. It was too wide in the beam for the Lock, which can take maximum 7.80 meters. That is why I asked Kamp if it would be all right if I called my brothers in law, Heuvelman, because I could not handle the ship. Kamp said this was okay. That afternoon, Kamp called me again, (Reporter: was Rijpkema. See end-statement). He asked me if we could come onboard the Magdalena around 18.00 pm. I called Heuvelman, and we made an appointment for that time at Willemstad. We went to Willemstad and arrived at that time, where we met Rijpkema and Policemen who were guarding the ship. In the Company of Rijpkema and the Police, we examined the Magdalena. When we arrived, one pump was working. There was little or no water in the ship.

You are asking me if there was immediate danger of sinking. I answer you that there was none. If so, no one would have bought the ship. You are asking me if the ship had could have stayed there for some days or weeks, with pumps working. I answer you that on that moment, no inspection from divers had taken place, so I cannot say that. From my experience, I know that provisional repairs sometimes start to leak again. I did not meet Kamp in the harbor or at the Police office. I did not have more phone-contact with Kamp. During the call at 17.15 pm. with Kamp, (Reporter: was Rijpkema, see (end) statement), Kamp told me that we must give our offer to Verveer at Dordrecht. I believe, he told me to have to quit is

involvement because of our relation. Kamp gave me the phone number from Verveer.

Now I mark, that I did not know if there were more candidates for the ship. Although I am related to Heuvelman, our business is tough. I had brought the ship to their attention and I wished to receive a commission for it, incase the ship was granted to them. We decided, Heuvelman and me, that we would make an offer on the ship. Incase the officer of justice would not grant the ship to Heuvelman, for some reason, and then I was still in the picture. I would do an offer of f. 11,500-. Later on, I heard that Heuvelman made an offer of f. 14,000-. When the officer of justice would not grant the ship to Heuvelman, it would not have been right that I had sold it to them anyway.

That Monday evening, September 24, 1979, around 21.00 pm. I have called Verveer with my offer from f. 11,500-. I do not remember if I had put a time limit on it. The next day, September 25, I was called by Kamp, who asked me to phone Heuvelman. He was in a hurry because he had to attend to a funeral. I had to tell them that the ship was granted to them and from that moment on, lying for their risk and account. That they had to provide for a pump. It was a very short call. Therefore, I did call Heuvelman and told them, they were now the Owners of the Magdalena. That was all I had to do with this matter. The same evening, the ship was sold to V/d Marel. Only yesterday, I have learned that Heuvelman had sold the ship for f. 28,000-. For my work in this matter, I have received the normal commission, on an invoice, with VAT. I am sure that no goods from the Magdalena went onboard the ships from the Belgian Mission Community. Now you have reread my statement to me, I am in doubt if I, on Monday, September 24, 1979, around 17.15 pm; was called by Kamp or by Rijpkema." After rereading his statement and he confirmed, witness Timmerman undersigned the concept-statement.

Questioning from Kamp dated March 27, 1980. Reporter Gaastra has told Kamp that he in this stage of the investigation was not considered a suspect. "I am Johannes K A M P, age 60 years, Adjutant from the State-Police, living at Willemstad, Dr. Jan van de Tempellaan 36".

Q. 1:

The criminal aspects of this case, the stranded Mi-Amigo, were in the first place a case for the Detectives from Radio-Control, PTT. When did you have your first contact with Mr. Pieters about this affair?

A. Adjutant Kamp:

"This was on Sunday, September 23, 1979, at 12.55 pm. on the RP-9 via Scheveningen radio".

Q. 2:

Did you know that Mr. Pieters had heard from Smit-Tak that the condition of the ship was such that the costs of salvage would be much higher than the value of the ship, let alone the question if the ship could be saved?

A. Adjutant Kamp: "No". "I did have heard that a foreman from Smit-Tak on Saturday, September 22, 1979, went with two tugboats to the Magdalena and afterwards had told that they could not save the ship. This message came via our own Service."

Q. 3:

You know that Sergeant Major Van der Ploeg that Sunday morning, September 23, 1979, around 06.00 am, did had contact by telephone with Mr. Pieters. Which order did Mr. Pieters give?

Adjutant Kamp:

"I do not know that Van der Ploeg had have contact with Mr. Pieters. The day before, Saturday, Van der Ploeg, Roth from Radio-Control and me, had have contact with Mr. Pieters about the situation. (Reporter: See additional).

Additional.

On Friday, September 21, 1979, I have received a request for assisting with the arresting of the Crew from Mi-Amigo, also the placing under custody of the ship and the transport from it to Rotterdam. For that, I had to leave two of my men on the ship. The next day, around 06.00 a.m. a tugboat from Smit-Tak would arrive, to pull the Magdalena off from the sandbank and to transport the ship to Rotterdam. That Friday, there were more swells on the bank than expected. With a sloop from Delfshaven, the Crew was taken off from the Magdalena and arrested. The ship was placed under custody. Everything, which could be closed onboard, was sealed off. The weather was such, that it was not wise to leave the two Policemen onboard of the ship. Everything was conveyed by radio to the Districts bureau at Dordrecht. During the following night, personnel from my group did observe the ship under custody, from off the coast. That Saturday I heard that two men from my group at Bruinisse were onboard of two tugboats from Smit-Tak with destination, the Magdalena. After that, the supervisor from Smit-Tak had told that

they could not save the Magdalena. As far as I know, the ship was under guarding from the Police all the time until the salvage”.

Q. 4:

You wrote in your report, nr 632/79, dated October 4, 1979, that after your arrival, the Magdalena was inspected. Observed was that the situation, regarding the leaks, was not too bad. You then decided to have Theunisse informed, because it seemed possible to save the ship. Why did you do this?

A. Adjutant Kamp:

“In my opinion, the order to assist with the transport of the ship to Rotterdam still existed. When the situation that Sunday morning looked very good to save the ship, we came on the idea to inform Theunisse. I thought that the contact between Justice and Smit-Tak was ended. Nobody of the present people had any doubts; the ship had to be saved.”

Q. 5:

In the Daily report from the Radio-room-State-Police at Dordrecht, date 09-23-79, is noted: 11.12 pm; “Adjutant Kamp o/b RP-9 reports that a small tugboat with shallow draught, possibly can go close enough to the Magdalena, for the salvage of the ship, and is requesting to phone Theunisse at Dintelsas, if he is willing to try this on “No Cure-No Pay” basis. When someone is granting such a request, is it not normal then, in the usual manners of society that one can speak about a given order or an agreement?

A. Adjutant Kamp:

“Considering the nice and friendly relations with Theunisse, in my opinion one must not speak about a business agreement here. I know all too well the phrase “No Cure-No Pay”.

When Theunisse, at that moment, had presented an official document from Lloyds Open Form, for me to undersign, I would not have done so.”

Q. 6:

What was the reason that it was not necessary to inform the officer of justice? - According to this report-

A. Adjutant Kamp:

“Like I said, we were there for assisting with the possible salvage and transport of the ship. That Smit-Tak was not responding did not mean for us to end our action. I thought it not necessary to inform the officer of justice because: a) the given order

was still valid, also supported by the present people from Radio-Control. b) We were convinced that the costs of salvage by Theunisse, when finished, could be deleted with easily, with the satisfaction from Justice. This considering the pleasant relation with Theunisse.”

Q. 7:

Thru intervention from the Districts Commander you did had have contact with the officer of justice, on Sunday, September 23, 1979, between 12.52 and 12.55 pm, via Scheveningen Radio and telephone. This Officer stated later, with regard to this conversation: “Kamp did indeed asked Theunisse “to come and have a look, because he thought it was still possible to do something with the ship”, or words to the same effect, and that for this “looking at”, he could made no demand for a pay. Did Theunisse had to come for salvage or not and how did you see the payment to Theunisse at that moment, and how was this call with Mr. Pieters going?

Adjutant Kamp:

“I can repeat this call almost literally. It went as follows: To begin with, Radio-telephone calls are in short sentences, like on the mobile-radio. -I told Mr. Pieters that it seemed possible to save the ship and that a tugboat was on its way. Mr. Pieters answered: “I don’t remember that I have ordered that.” I answered: “I also didn’t give an order, but he is coming on a No cure-No Pay basis”. Mr. Pieters answered: “Then I agree”.

This was the whole call, not one word more ore less. I did not say that Theunisse would come to have a look, to see if something could be done, because I thought that this was possible. In addition, there is not one word spoken about any payment. I think Mr. Pieters is combining the talks from a later date, with this call. The version from Mr. Pieters is giving a picture about in which way the calling for Theunisse was conducted.” (Reporter marks here that according to his information, Calls on Scheveningen Radio are not recorded.)

Q. 8:

According the daily report from the Radio-room-State-Police at Dordrecht, date 09-23-79: At 16.19 p.m. the RP-9 pulled the ship from the sandbank. This was conveyed to Mr. Pieters. Could Mr. Pieters, based on this info, have thought that the ship was going to be saved then? Did he have given an order to do that?

A. Adjutant Kamp:

“I think so, why else was the ship pulled of the sandbank. As I said, Mr. Pieters did say in the radio-call, “Then I agree”. So, He agreed with the coming of a tugboat on

a No Cure-No Pay basis. In my opinion, the whole salvage was the later carried out order for assistance with the arrest of the Crew and placing under custody and transport of the ship. This was also the view of the men from Radio-Control and the Districts Detective.”

Q. 9:

Mr. Pieters wrote on 12-03-79 to the Attorney General “the Adjutant knew that I did not have given a salvage order. For me, the situation was as follows: The ship could stay there as scrap, and the transmitter lifted out or destroyed. That was the only order given by me.” How do you see this, compared to your actions that Sunday afternoon?

A. Adjutant Kamp:

“Still valid for me, was the order for salvage and transport, as given on Friday before, from the Districts office at Dordrecht. Everyone present shared this view. The officer of justice or the Districts-commander have had also never said that the ship should not been saved. Instruction was given for destroying the transmitter, because Smit-Tak had told that the ship could not be saved. When we thought it still was possible, we took steps to do that. Mr. Pieters agreed with the coming of a tugboat. When the salvage was finished, Mr. Pieters and the districts-commander spoke appreciating words about it. This after the ship was moored at Willemstad.”

Q. 10:

When on your order, the ship was pulled of the sandbank at 16.15 pm. by the RP-9; this was relayed by VHF to Theunisse, onboard of his approaching Furie-2. Theunisse reacted with; “What the hell are you talking about? And, “What about the water?” Question: was this, in nautical terms, such a stupid move from you?

A. Adjutant Kamp:

“Theunisse did not have sufficient information, especially regarding the leaks, for reacting like this. He could not conclude that the ship was in danger of capsizing. The water in the ship could have entered the ship also from large waves.”

Q. 11:

Short before the arrival of Theunisse, the situation for the ship was dangerous. The ship had a list of 40 degrees, according your own report. Police officers, who were present there, told me that without the fast reaction from Theunisse, when he arrived, the Magdalena would have had sunk. Can we say now, that the Police had

saved the ship, with the assistance from Theunisse? On the other hand, did Theunisse save the ship?

A. Adjutant Kamp:

Although in our report is mentioned that the ship had a list of 40 degrees, afterwards, this is not correct. With the help from a picture taken by Theunisse, we have calculated that the list was only 15 to 18 degrees. In case Theunisse had not showed up, we could have had the ship placed back on the ground again, and we would surely not let have had it capsized. We knew that Theunisse was underway and also were he was. In terms of shipping it is that, he who pulled the ship off is the salver. In fact, it is like this; together we have saved the ship. Business like, this was in fact a job for a private enterprise. In terms of Police work, it was the keeping of goods under custody.”

Q. 12:

Mr. Pieters stated on November 19, 1979, before the Judge-Commissary “On Sunday morning or Monday evening, I heard from Kamp that Theunisse was sailed out”. However, we just have noted that you on Sunday afternoon at 12.52 pm. via Scheveningen Radio had contact with Mr. Pieters. In addition, the daily report from the Radio Room shows that at 16.19 pm. Mr. Pieters receives the message that the Magdalena is pulled off with the RP-9. How can Mr. Pieters have stated this?

A. Adjutant Kamp:

“I already stated in Q.7, what exactly is spoken of. I answered on Q.7 with the exact words, than spoken by Mr. Pieters: “I do not remember that I have ordered that.” (I had told him that a tugboat was underway). Then I said, “I also did not give an order, but he is coming on a No cure-No Pay basis”. Then, Mr. Pieters said, “Then I agree”. The name Theunisse is not mentioned then.”

Q. 13:

Mr. Pieters stated next, “If I had understood that Kamp had ordered a salvage of the ship, I would have had jumped on that, because it was against the given instruction”. So, you were acting against the instruction from the officer of justice?

A. Adjutant Kamp:

“Like I just stated, I also did not give an order. I mean an order in a business sense. Theunisse came more often for assisting, without any financial benefit or right. I said before that the phrase No Cure-No Pay is a 100% business agreement. However, considering the relation, Theunisse – Police, I did not mean

it business like. So, in my view, I did not act against the instruction of the officer of Justice.”

Q. 14:

Mr. Pieters continues: “In the phone call on Sunday, September 23, 1979, around 12.30 pm; I have heard from Kamp that Theunisse was sailed out. When Kamp told me that this was done because he had said Theunisse: “Come and have look, maybe there is something in it for you”. In other words, that Kamp did not give a salvage order, than I have said, “Then I agree”. Did you, in this phone call via Scheveningen Radio, told clearly to the officer of justice about your plans, which were; like I have understood from other Police members and from various documents; the salvage of the Magdalena? With other words, “Come, and have a look”, towards the Officer of Justice was in fact, the salvage of the ship?

A. Adjutant Kamp:

“Mr. Pieters had stated before the Judge-Commissary that he had heard from me that Theunisse was sailed out. This is not correct, because, like I told you just before, the name Theunisse was not mentioned. I also did not said, “Come and have a look, maybe there is something in it for you”. What Mr. Pieters is saying here, is more in the trend of the past, when we were working with Theunisse. In later talks, this trend is explained to him. In the call via Scheveningen Radio, Mr. Pieters said, after I said, “a tugboat is underway”, in an emphasizing tone: “I do not remember that I have ordered that.” I experienced that as not agreed. After that, I said, “He is coming on No Cure-No Pay basis”. I guess that my information to Mr. Pieters via Scheveningen Radio had surprised the Officer, in the sense that, in spite of the negative view of Smit-Tak, it was possible to save the ship. I assumed and still assume that the Officer of Justice is familiar with the principle, No Cure-No Pay.”

Q. 15:

From the daily report of the Districts-Radio-Room, the statements from Policemen, and the statement from Theunisse is become clear, that this salver sailed out that Sunday, in order to save the Magdalena, on a No Cure-No Pay basis. Did you realize yourself the consequences?

A. Adjutant Kamp:

“The phrase: no cure - no pay is fully understood by me. This phrase is also sometimes miss-used. Regarding the good relation with Theunisse, I did not use this phrase in a business like manner, nor did I do it on purpose.”

Q. 16:

Outside the Lock at Stellendam, that Sunday night, you told Theunisse that the transport fell under his responsibility: “because, when damage occurs, we are not insured.” How did you see the financial follow up of this action?

A. Adjutant Kamp:

“When I told this to Theunisse, we were in the “Slijkgat”, around 20.00 pm. I did not think in the first place about the insurance aspects. For which special purpose I transferred the responsibility to Theunisse, in fact, I do not know. Maybe, because the financial liability during the transport, for which we are not insured, but I do not know if Theunisse was insured for this liability. In normal practice, it is common that the responsibility is for the Insurance of the towed ship.”

Q. 17:

The statement from Sergeant Van den Berg says, “That the group-commander requested, via the Districts-Radio-Room, the salvage Company Theunisse at Dintelsas for the salvage on a No Cure-No Pay basis”. Also, via the Districts-Radio-Room, this above-mentioned Company agreed to work under this condition and to come at once”. Why did you have these parts erased from this statement?

A. Adjutant Kamp:

“When I received his statement on my desk, Sergeant Van den Berg was not at the office. I assumed that Van den Berg got this information from others. Later, I have noticed that Van den Berg had heard this parts indeed by him self. In addition, He had a written a shortened version of it. Also, I thought, it belonged more to my statement.”

Q. 18:

Theunisse stated, “During my talks with sergeant Welbie (Radio-Room), I asked who was giving the salvage order for the Magdalena. Welbie told me that this order came from the Officer of Justice at Amsterdam. I knew that the ship was taken in custody, so I have realized myself before sailing, which was my contracts party. That is why, all my questions to Welbie.” One can read in this -that Theunisse, miss leaded or not- was assuming to have a salvage agreement with the Government

A. Adjutant Kamp:

“It is possible that Theunisse gathered information about his contracts-party before sailing. But I did not know that. During the action, Theunisse asked me about the

Owner and the Insurance Company from the Magdalena. But not one word is spoken about: "Who is going to pay for this" ",

Q. 19:

The Statement nr. 652/79, made by you and Heimensem dated October 4, 1979, on page 4, say, "He, Theunisse, considered his job ended at Stellendam and advised us to ask "Towing Service Broedertrouw at Zwijndrecht", for the transport of the ship."

A. Adjutant Kamp:

"Theunisse wished, after he was arrived on scene, to bring the ship to Stellendam instead of Rotterdam, because a tow to Rotterdam caused him to be too long from his station at Dintelsas. I liked Rotterdam better because this was the original instruction, to the storage harbor. When I told Theunisse this, he agreed.

Close to the "Slijkgat", when I transferred the responsibility to Theunisse, on the moment that the ship started to list dangerously, I called Theunisse on the VHF and told him: "It is too dangerous to go to the Waterway, we better go to Stellendam". In the "Slijkgat", the ship grounded again. Therefore, we got plenty of time to pump out the water. After that, we went to Stellendam, where we have asked Theunisse about the situation of the ship. In addition, we have spoken about the possibility to bring the ship to Rotterdam, this also considering the possibility of a simple way to stop the leaks. Theunisse answered: "the ship is rotten. To stop the leaks will cost a fortune. Get it of your hands as soon as possible." He also said, "For me the salvage has ended here and now." Or words to the same effect. And: "for the transport, ask "Towing Service Broedertrouw at Zwijndrecht"". The background was that he did not wish to be too long from his station. Theunisse himself has stated this"

Q. 20:

In the just mentioned part of your statement, nr. 652/79, is also written that Theunisse towed the Magdalena to Willemstad because he was going in that direction anyway. Is this said in a conversation?

A. Adjutant Kamp:

"This part of our statement, nr. 652/79, shows clearly the relation between Theunisse and the Police. A good example of his willingness, and ability to help us out, without speaking about money. Like I told you, Theunisse said this."

THE SALE OF THE MAGDALENA:Q. 21:

What can you tell about the conversation onboard the RP-9 in the harbor of Stellendam on Monday, September 24, 1979, around 07.00 a.m.?

A. Adjutant Kamp:

You have read me the statement, done before you, from Sergeant Van den Berg, and dated March 15, 1980. I am surprised about the content. I do not know how he got these things. I even do not remember me that we have had a conversation. I know for sure that Theunisse did not say, "The Cure is there, now the Pay follows". We all were enthusiastic about the result of the salvage but Theunisse did not speak like, "Now, the money is coming in". I hear from you that V/d Berg has stated, "During the conversation in the wheelhouse, Theunisse said, "If you do not know what to do with the ship, I know buyers". Or words to the same effect. I hear from you that detective V/d Sluis and Theunisse did state in the same words. I do not know anything about this. Maybe, on his phrase, "get the ship of your hands as soon as possible". I have said, "Is it not something for you?" But that was not serious because we had nothing to sell, because we had not taken anything in custody. We only had given assistance. Therefore, I did not ask Theunisse if he was interested in the ship. For me, the situation was like this: the ship cannot stay here, in Stellendam. I was pleased that Theunisse would tow the ship to Willemstad. There, we could keep an eye on it, like as happened in the past. I was not thinking of buyers also, this was not my task.

I hear from you that Theunisse has stated that he, after this conversation, made contact with his wife and asked her to call Bogenda and Kerkhove at Zwijndrecht. You are telling me that this indeed did happen, according to your information. I hear from you that Mr. Ooms from Bogenda, after the phone call from Mw. Theunisse, who had spoken about a possible sale of the ship, that Monday afternoon, went to the harbor at Willemstad. I state here that Theunisse and his wife can tell that they did so, following the conversation onboard the RP-9, but I can tell you that I with my wife, have had a talk with Theunisse in the harbor that afternoon. Then is spoken about keeping the ship floating and then Theunisse told me that, if the ship were going to be sold, he would like to know about it. I answered him that other people were working on that subject and that I did not had have business with that. I am asking now why did he not told me than, that he was negotiating with these Firms?"

Q. 22:

Did you ever think about the right of retention from Theunisse in that time?

A. Adjutant Kamp:

"I have never thought about that. Now, I must say that Theunisse never mentioned it to me."

Q. 23:

Did you know, on Monday, September 24, 1979, in the morning or afternoon, if any other civil servants were busy with the sale of the Magdalena?

A. Adjutant Kamp:

"I heard by rumor, in the afternoon or evening, civil servants were busy to sell the ship, or to get rid of it."

Q. 24:

Who were they?

A. Adjutant Kamp:

"I do not know, I had no business with it and I did not wish to think about it."

Q 25:

That rumor, you mentioned, who told it to you?

A. Adjutant Kamp:

"I do not know that either. Maybe it was at the office, or on the dock. The only thing I remember is that I told Verveer, -I think it was Verveer-, "Ask a number of Wreckers to make an offer, then you have an objective value" "

Q. 26:

This was your only involvement with the sale from Magdalena?

A. Adjutant Kamp:

This was the only involvement, except the writing of the Bill of Sale. This is happened at the Palace of Justice at Amsterdam. Now I mark here, that the concept-Bill of Sale is read to Mr. Pieters, after which the definitive Bill of Sale is typed at the office at Willemstad. Afterwards I heard that Colonel Mensert-Spaanderman, Adjutant Verveer, and Mr. Rijpkema were involved in the sale of the Magdalena. I don't know if other people were involved."

Q. 27:

What contained this involvement?

A. Adjutant Kamp:

"I do not know."

Q. 28:

Did you meet that Monday afternoon, September 25, 1979, with Mr. Ooms from Bogenda?

A. Adjutant Kamp:

"No, I did not, that I know of. I did not hear the name Ooms that afternoon."

Q. 29:

Did you that Monday afternoon, September 25, 1979, had contact with possible buyers or candidates for the Magdalena?

A. Adjutant Kamp:

"I tell you again that I stayed carefully away from the sale of the Magdalena. I thought this a difficult matter. In my opinion, I had no authority. On your question how I was seeing this legally, I answer you that I did not sell the ship, but that the Colonel Spaanderman was involved in this, and he is a lawyer. (After pressing on by reporter and my question about Timmerman): I had contact by telephone that Monday September 25 1979, with Mr. Timmerman, Ships-wrecker at Ooltgensplaat. At what time, I do not know. I did not this on order or request from Spaanderman or Verveer. I do not know if it was in the morning or in the afternoon. I called him out of my home. I have spoken with Timmerman himself."

Q. 30:

What did you tell Timmerman?

A. Adjutant Kamp:

"I told him that the ship was at Willemstad. In addition, I told him that it would going to be sold. I asked him if it could be something for him".

Q. 31:

Did you know that Timmerman could not handle a ship of that size, because his yard was too small?

A. Adjutant Kamp:

"No, I did not know that, I learned that later on".

Q. 32:

Why did you called Timmerman and no other interested party?

A. Adjutant Kamp:

"I tipped Timmerman because he is doing a lot for the Belgian Mission Community. I am Secretary from the foundation "Our Hope". Timmerman did a lot for this foundation in the past, all for free. Timmerman is not on the board of the foundation, but he is interested in the work from this mission community. I called Timmerman because I know this man and because he is a friend. March 1979, Timmerman started to help us with the conversion of a ship to a mission-ship. Now I mark here, that I that Monday afternoon, mentioned also other wreckers to Spaanderman or Verveer."

Q. 33:

You called Timmerman that Monday morning or afternoon. Was the sale of the ship this urgent, and was such hurry necessary? There was also spoken about storage in Rotterdam.

A. Adjutant Kamp:

"I only have informed Timmerman about this opportunity. The rest was up to him."

Q. 34:

What did you agreed with Timmerman more about?

A. Adjutant Kamp:

"I informed him, and that was it. I do not know if he had contacted Verveer or otherwise".

Q. 35:

Did you know that Timmerman is related to Heuvelman, the buyer of the ship?

A. Adjutant Kamp:

"I know this; I believe Timmerman's wife is a sister of Heuvelman."

Q. 36:

Did you receive money and/or any other present or promise from Timmerman or Heuvelman, Or did the above-mentioned Belgian Foundation received such things because of this transaction?

A. Adjutant Kamp:

"I did not receive anything from Timmerman or Heuvelman. Also did not the Belgian Mission Community. This in relation with the ship."

Q. 37:

Did you see your tip to Timmerman as a reward for him because of the work he had done, for free, for the Foundation?

A. Adjutant Kamp:

"No, I only regard him as a friend."

Q. 38:

Did you meet, Monday September 24 1979, with Timmerman?

Adjutant Kamp:

"I did not meet Timmerman that Monday. On purpose, I avoided involvement in the transaction to prevent that later could be said, that there was a (friendly) connection between Timmerman and me."

Q. 39:

Did you meet with Rijpkema that Monday (09-24-79) in the harbor of Willemstad or at the office?

A. Adjutant Kamp:

"I have met with him in those days, but do not remember if this was on that Monday."

Q. 40:

Who had taken the offers of f. 11,500- from Timmerman and of f.14, 000- from Heuvelman on the Magdalena?

A. Adjutant Kamp:

"I do not know noting about that, absolutely not. Only on Tuesday afternoon, I received a phone call in which I was told that the ship was sold to Heuvelman for f. 14,000-. By mobile phone, I called the RP-28, to tell Theunisse that everything he was doing from then on, he had to charge Heuvelman for. Or words to the same effect."

Q. 41:

Did you not hear that Monday evening or Tuesday morning, how much Timmerman and Heuvelman had offered for the Magdalena?

Adjutant Kamp:

"I do not know that, I cannot remember."

Q. 42:

Who instructed sergeant major Delhaas on Tuesday morning to go to Mr. Pieters?

A. Adjutant Kamp:

“This was on instruction from Colonel Spaanderman, I assume this.”

Q. 43:

Did Delhaas knew what offers were made for the ship?

A. Adjutant Kamp:

“I do not remember anything else then I have heard in the afternoon for which sum the ship was sold. When I heard the amount of f. 14,000-, I was surprised.”

Q. 44:

Did you have contact on Tuesday, by telephone with Mr. Pieters?

A. Adjutant Kamp:

“As far as I remember, I had no contact with this officer that day.”

On March 13, 1980, I, Inspector Gaastra, have heard:

Pieter Rini V A N D E N B E R G - age 25 years, 1^e sergeant State-Police, living at Oud-Beijerland, Who stated: “On Sunday and Monday, September 23 – 24, 1979, I was involved in the salvage of the Radio-transmitter ship Mi-Amigo, Magdalena.

On November 19, 1979, I have stated before the Judge-Commissary of the Court at The Hague in a preliminary hearing. Purpose of this hearing was, in my opinion, in the first place to establish the salvage order on basis No Cure-No Pay. My statement shows that I have heard, in that time, that the Adjutant Kamp requested the salver Theunisse to come to the stranded ship and to save this, under the condition No Cure-No Pay.

On Monday morning September 24, 1979, around 06.00 a.m. I was present in the wheelhouse from the RP-9. Short before this, the Magdalena was moored in the harbor of Stellendam. There was a casual and friendly conversation going on between, Adjutant Kamp, Theunisse, V/d Sluis, Heimensem and I believe P. Kamp, about the salvage. During this conversation, Theunisse made the remark: “The cure is here, now the pay.” Not only during this meeting but also before, Theunisse had showed that he liked that the salvage was a success. He was fully convinced that he did his task well and earned his money. From his remarks and attitude it was clear that he was glad that he had made a job that could be financial

good for him. Theunisse also said, "This is the Job of the year." Everyone involved in this action must have had noticed that Theunisse was glad that he had made this job and that he would benefit from it.

I mark here that it was Theunisse who prevented the Magdalena from sinking, after she was pulled free of the ground. He told us that it would have had been much better if the Police had leave the ship aground, because then, the risk was less. During the conversation on the RP-9, that Monday morning, Theunisse said, "If you do not know what to do with the ship, I probably know buyers." Or words to that effect. As I told you, Adjutant Kamp was present with this. There were no names of buyers mentioned. Monday September 24, 1979, around 07.00 a.m., I was released from duty.

Wednesday September 26, 1979, I was part of the Crew from RP-9, with the task to convoy The Magdalena from Willemstad to the Sip wrecker's yard, V/d Marel at Viane. We sailed that morning at 09.00 am. Two tugboats from V/d Marel picked up the Magdalena. That day I heard from colleagues that the ship was sold for f. 14,000-. Comment was that this was far too low. Later I heard that there were troubles around the invoice, which Theunisse had offered to the Adjutant Kamp.

The problems around the rewriting of my report, by a third person, were in the first place about the phrase "No Cure-No Pay". Adjutant Kamp told me that he would put this phrase in his Report and that I only had to mention in my report, my findings onboard of the ship. Second, it was about what I had mentioned in the case about the 6" pump-hose. I wished to prevent that there would be questions asked about it during the hearing, so I asked the Adjutant Kamp to also send in my first, original, report. Adjutant Kamp did not think this necessary." After rereading and he confirmed, P. R. V/d Berg undersigned the concept-report.

On March 24, 1980, I, Inspector Gaastra, have heard:

Cornelis Willem B R O U W E R – age: 27 years, sergeant from State-Police, living at Dinteloord, Who stated, "You have read to me the statement from colleague Knoop before you. Regarding the facts like stated by Knoop, I totally agree with him, this for the facts in the time that we were together. I have seen also that Theunisse on Monday afternoon, September 24 1979, around 16.00, entered the ship in the company of a man, not known by me. Knoop and I had just sealed off the engine-room. Theunisse and this man would like to see the engine-room. This was done also.

At that time, Adjutant Kamp was also onboard. I do not know if Kamp did speak with this man. That morning, before we left at Stellendam, there is spoken about an offer for the engine-room from Magdalena of f. 30,000- to f. 35,000-. Who told this I do not remember. That same day, the name Bogenda was also mentioned, in connection with the possible buying of the engine-room. On Tuesday, September 25, 1979, at 16.00, I came back on duty. At the office, I heard that the Magdalena was sold for f. 14,000-. At that moment, Theunisse was also at the office. He showed clearly not being too happy with this sales price.

That evening, I made a start with making a list of inventory from the ship. Around 18.30 first came Heuvelman onboard, later followed by V/d Marel. Both have taken a look at the ship. In addition, Adjutant Kamp came onboard that evening. Kamp had spoken with Heuvelman. I did not consider the situation of the Mi-Amigo as such that it needed to be sold that quickly. Theunisse managed to repair the leaks on September 25 1979. The colleagues thought it a stupid low price, for which the ship was sold. In my opinion, in view of my experience in shipping, the ship could have had been sold for a much better price. This, considering the amount of equipment onboard and the size of the ship.” After rereading and he confirmed, C. W. Brouwer undersigned the concept-report.

On March 19, 1980, I, Inspector Gaastra, have heard:

Jans Gessienus D E L H A A S – age: 47 years, Adjutant State-Police, living at Aalsmeer, Who stated: “Until December 1, 1979, I was assigned to the Group-Willemstad from the State-Police, District Dordrecht. About the happenings around the Radio ship Mi-Amigo, Magdalena, I can state as follows: On Monday September 24, 1979, around 15.30, I was present at the Willemstad office. Short before, Kamp had told me that a member from the Ships-Service would visit us. He asked me to bring this man to the harbor, where just was moored the Magdalena. Around 16.00, I went with this man, Rijpkema to the Magdalena. In my presence, Rijpkema has examined the condition of the ship. During this inspection, a number of other people were present: the districts commander, Colonel Spaanderman, Adjutant Kamp, and the Crews from two Police boats, Theunisse and his crew and a few people from the Press.

After the inspection, I have made a report at the office, from the findings of Rijpkema. (A copy from this report, nr. 607/79 is added to this dossier). For the content from this report, regarding the condition of the ship, Mr. Rijpkema is responsible. I have made this report on Monday, September 24, 1979, around

18.30. Short before, Rijpkema made his notes on a little piece of paper, which had to be written in my report. I do not regard myself enough expert on this field, for judging if the facts he gave me, and are written by me in my report, are according the real condition of the ship. At the moment we were busy with this report, ships wrecker Timmerman entered the office. He told me that he was interested in buying the ship. He said that he would like to see the ship. Rijpkema went back to the ship together with Timmerman. In the meantime, I finished the report. A short time after, Rijpkema came back and together we have undersigned the report about the condition and situation of the Magdalena.

You are asking me if, during the inspection of Rijpkema, I have seen or heard of the presence of somebody from Bogenda, the same time I was also onboard. I answer you that I did not notice that, but it is very well possible because, like I told you; there were many people onboard. I do not know Mr. Ooms from Bogenda. That afternoon and evening, no signs were there that besides Timmerman, there were more candidates for the buying of the Magdalena. On instruction from Kamp, I traveled to Amsterdam on Tuesday, September 25, 1979, to bring the report regarding the ship to Mr. Pieters, officer of justice at Amsterdam. I was at the Willemstad office early that morning, I remember me that I was the only staff member at that time, when a call came in from the Districts office at Dordrecht. I do not remember who called. I was told that two ship wreckers had made an offer on the Magdalena. Timmerman had made an offer of f. 11,500-, and Heuvelman f. 14,000- for the ship. Heuvelman had put a restriction on it: A deadline for 11.00 or 12.00 that day. I do not know the time exactly.

When I arrived at around 11.30 at the office of the Officer of Justice, he read the report in my presence. Casually he asked me "Who gave this salvage order?" I thought this an odd question because I thought he had done this himself, or at least knew about it. Because I was not involved in the salvage, I could not answer this question. In the presence of Mr. Pieters, I called at once with the Radio room of the District at Dordrecht.

I asked the colleague there, what was noted about the salvage order in the daily reports?

The info I received was the same info as you are showing me now. The notes showed that there was contact with Mr. Pieters that Sunday September 23, 1979. Mr. Pieters told me then that he, on Sunday morning, have had contact with colleague Van der Ploeg from the Districts office, and that this was the last contact about this matter he could remember he had, that Sunday. Pieters told also that it was hardly possible that he was called another time that day, because he also was

away from home that day. As I told you, I was instructed to tell Mr. Pieters that there were two candidates for the ship. I told the officer who they were and also the offers they had made. I asked him if I had to take a reaction of him back to Willemstad.

Mr. Pieters told me; “No, I cannot decide on this, I have to consult first with the Attorney-General.” As soon it was decided to sell the ship, he would notify the Group-commander at the office of Willemstad. According to my notes, I made that time, Mr. Pieters asked me to ask Rijkema to put his findings and figures in an extended report. During the inspection onboard the ship, Rijkema told me that in order to have the ship ready for sea again, with valid certificates; repairs to an amount of f. 750,000- to f. 1,000,000- would be necessary. Only the haul out, the transport, and the emergency repairs would cost f. 50,000-. This was all what I have spoken about with Mr. Pieters. I was with him at his office on Tuesday afternoon 09-25-79, around 13.15. His request to Rijkema, I have conveyed later. About the further developments in this matter, I do not know anything.” After rereading and he confirmed, witness Delhaas undersigned the concept-report.

On March 19, 1980, I, Inspector Gaastra, have heard: Damis Gerrit B O E R – age: 41 years, director, living at Zwijndrecht, Who stated:

“I am director from Bogenda BV at Zwijndrecht. We are specialized in the overhaul and repairs of ships engines. On Monday September 24 1979, the wife from salver Theunisse at Dintelsas called us. On behalf of her husband she asked us if somebody from us would like to go to Willemstad, because there should any time soon will be moored the Radio ship Mi-Amigo-Magdalena. This telephone call was in the morning or around noon. My former employee, J. P. Ooms went on my instruction to Willemstad. We were interested in the engine-room of the ship. Later, I have heard from Ooms that he, in the company of Theunisse has inspected the engine-room. In the evening, we have contacted Theunisse and made an offer to him for the engine-room of the Magdalena of f. 30,000-. On his request, we confirmed this offer the other day in writing. (See copy). I have heard that Theunisse had arranged for to let Ooms being picked up from the dock. First, his visit to the ship was denied, but after intervening from Theunisse, he was allowed to see the ship and the engine-room. You are asking if later on we were approached for a possible buy of the engine-room. I remember me that we, after some time have received a phone call about it. Maybe one of us has offered than only f. 5,000- for the same stuff.

You must know that an offer on an engine-room, which was flooded before, is only making sense if one can act quickly. An engine-room can be flooded, even with salt water, for a few days, but after that must be quickly taken care of and conserved against corrosion. In this case, an offer of f. 30,000- was reasonable, but only if we could clean the engines immediately. You are asking me if I would have liked to buy the whole Magdalena, but on the other hand was just interested in only the engine-room. I answer you that I would have liked to buy the whole ship for f. 30,000-. Only on the engine-room, I would have made a very nice profit." After rereading and he confirmed, witness Boer undersigned the concept-report.

On April 3, 1980, I, Inspector Gaastra, have heard: Bernard H E I M E N S E M – age: 42 years, Sergeant Major State-Police, living at Dinteloord, Who stated:

"You have read to me, my statement dated on December 21 1979, before the Judge-Commissary at The Hague. I confirm myself with the content. The request to Theunisse on the No Cure-No Pay basis was essential to me. In my opinion, this was of utmost importance for the Adjutant Kamp. Only after, I heard the words from Mr. Pieters via the VHF: "Then I agree". I was at ease. The conversation between Pieters and Kamp was as follows: Adjutant Kamp gave Pieters a short briefing about the situation on scene. Kamp told Pieters that a tugboat was underway. Pieters reacted short: "Adjutant, I did not order you to do that." Kamp replied, "He is coming on a No Cure-No Pay basis". Pieters answered: "Then I agree."

I hear from you that some of the colleagues have stated before you that on Monday morning, September 24, 1979, between 06.00 and 07.00, a conversation took place, between these colleagues and Theunisse. I remember that too. Adjutant Kamp was also present at this meeting. I do not remember that there was spoken about the possible sale of the ship. I do not know if Kamp had asked Theunisse, "Is it something for you?" I can describe the situation there and than as follows: I had stood behind the wheel of RP-9, the whole evening and night. After we were moored in the harbor of Stellendam, as boat commander, I had to do a lot of writing about this action. I have done this in the boat commander's cabin, which is situated in the stern at starboard side. During the conversation, I was about 15 minutes there, so, I could not follow all of the conversation.

-On Tuesday, September 25, 1979, I came on duty at 14.00. The Adjutant Kamp was at the office also. He had two News-reporters visiting him, who were just

arrived. I didn't notice any incoming calls from Mr. Pieters or the Districts Office." After rereading and he confirmed, B. Heimensem undersigned the concept-report.

On April 3, 1980, I, Inspector Gaastra, have heard: Pieter Cornelis K A M P, age 31 years, Civil Servant, Engineer on RP-9, living at Willemstad, Who stated:

"You have read to me, my statement dated on December 21, 1979, before the Judge-Commissary at The Hague. I confirm myself with the content. After the radio ship Mi-Amigo, Magdalena on Monday, September 24, 1979, around 05.30 was moored in the harbor of Stellendam; we were gathered in the wheelhouse from RP-9, awaiting our transport back home by Police cars. I remember very well the presence of the following people in the wheelhouse: Adjutant Kamp, Heimensem, Van der Ploeg, Van den Berg, Van der Sluis, salver Theunisse, and me. The crewmembers from Theunisse were on their boats and/or on the Magdalena. We were talking in a relaxed and friendly manner about the salvage. I remember clearly that Theunisse was sitting on the doorstep at starboard side. Adjutant Kamp was sitting or standing in the back of the wheelhouse. This gathering lasted for about half an hour.

After a while, the conversation became more business-like. There was spoken about were to go with the ship and what to do with it. Theunisse brought this up. Then the Adjutant Kamp asked Theunisse: "Is it something for you?" Or words to the same effect.

Theunisse answered that he himself was not interested in the ship, but he knew people who possibly were interested in it, or in parts from the ship. I am almost sure that already then he mentioned the name Bogenda. Later, this item came up again at a meeting of the Group. Adjutant Kamp said than that this item, selling the ship, was not spoken of, at the meeting on RP-9, or, he said, could not remember this. I am very sure that Adjutant Kamp was present and took part in the conversation. As I told you, Kamp asked Theunisse, "is it something for you?" I remember me also that Theunisse during mooring said: "The cure is there, now the Pay". That Monday morning at around 07.00, we were picked up from Stellendam. The rest of the day, I was off-duty.

Tuesday, September 25, 1979, at 14.00, I came back on duty. I was told to go with Heimensem to the harbor of Willemstad to pick up Theunisse. He was still at work on the Magdalena. Later, I have heard that Theunisse with his Crew did succeed in stopping the leaks in the Magdalena. When we arrived, Theunisse already had received a call by radio from the office that he had to stop his work on the

Magdalena. We gave Theunisse a ride to the Office, where he heard from the Adjutant that the ship was sold to Heuvelman. After that, Theunisse was disappointed about this turning of affairs. I have noticed on him that it was not to his liking at all.

As I told you, the leaks in the ship were closed. That afternoon, there was no need to pump. Around 16.00 to 17.00 arrived Heuvelman and V/d Marel at the harbor. They were transported to the Magdalena with the RP-28. Adjutant Kamp did have had a conversation onboard RP-28 with Heuvelman. I was not present during that conversation. Later, I have heard that during the transport and in the harbor at Zierikzee, pumping on the ship was not needed any more. I was borne on a ship, and after I left school, I have worked all my life on ships. For me, and all the other colleagues involved in this action, it was not understandable that the Magdalena was sold so fast and for such a stupid low price, f. 14,000- !

In November 1979, I was one of the people who were called for as witnesses for a preliminary hearing before the Judge-Commissary at The Hague. A short time after we had received the Call as Witness, I was informed that I didn't have to go, on November 19, 1979. The States lawyer conveyed this message to our office. This was for a few others and me a strange thing, more so because this was not done in writing. I was willing to be a witness in this case, but obviously was not allowed to do so. At the office, I was told that this was arranged with Theunisse and his lawyer. I contacted Theunisse and he assured me that he or his lawyer did not know anything about it. I have to tell you that this was a really bad thing for me. November 18, 1979, Adjutant Kamp called me. He had heard that I had spoken with Theunisse about this witness thing. He was mad at me. He told me to look out, because I could get in big trouble with this. Adjutant Kamp told me also, that when I was not very careful, I could end up like Sergeant Major de B."

(Reporter: A few years ago, De B. is found guilty and punished because wrongful death). After rereading and he confirmed, P.C. Kamp undersigned the concept-report.

On March 24, 1980, I, Inspector Gaastra, have heard: Eliza KNOOP – age: 32 years, 1^e sergeant State-Police, living at Dinteloord, Who stated:

"I am assigned to the group Willemstad, State-Police. On Monday, September 24 1979, at 06.00, Sergeant Brouwer and I received instruction at the beginning of our shift to go to Stellendam with the RP-28. This instruction we got directly via radio, from group commander Kamp, who was onboard from RP-9 at Stellendam. Kamp

told us that we had to take-over the guarding of the Magdalena. Kamp emphasized that we had no business with the salvage and or the transport of the ship, because this was the job and responsibility from salver Theunisse. Before we arrived at Stellendam, we heard by radio that cars already transported our colleagues from Stellendam. After we arrived at Stellendam, Brouwer and I took the RP-9 and we have convoyed the tow: Furie-2, and Orca, with Magdalena to Willemstad, were we arrived around 15.00. Before, near the Haringvliet-bridge, the RP-28 came alongside of Magdalena, with onboard Colonel Spaanderman and his aide, Adjutant Verveer. Before mooring, they left again.

Once moored, Brouwer and me have sealed off, onboard Magdalena the wheel-house and studios. Later we have checked on the stern part for the sealing off. When we were busy with the engine-room-entrances, Theunisse came with for us, an unknown person onboard. Theunisse was grumbling and yoking because we already had sealed of one side of the entrances. Together they went down into the engine-room. What they have spoken about I don't know, but it seemed a business-like meeting to me. Now I mark here, that before we were approaching the Haringvliet-bridge, we have called on request of Theunisse, via radio and our office, the wife of Theunisse to tell her that the submersible pumps he had ordered before, could be delivered at our office.

I am sure that at that afternoon Theunisse had spoken with other colleagues and me about an offer on the engine-room from the Magdalena of f. 30,000- to f. 35,000-, in relation of which the name Bogenda was mentioned. The moment that Theunisse was onboard Magdalena, with the unknown person, also were there: Adjutant Kamp, Delhaas, Slabbekoorn, Rijpkema from Ships-Service, and a few other Police members. When they arrived, we had to break all seals again, because Rijpkema had to inspect the ship. You are asking me if I have seen Theunisse, introducing the unknown person to Kamp. I answer you that I do not know that. Around 17.00, Brouwer and I have left the ship. Adjutant Kamp, Delhaas, and Rijpkema were still onboard at that time.

The next morning, Tuesday, September 25, 1979, around 09.00, sergeant major Petersen and I traveled to Apeldoorn by car. Delhaas went with us up to the railway station at Rotterdam, from were he took a train to Amsterdam for his meeting with Mr. Pieters, to report him about the Magdalena. In the car, we have spoken about if the Magdalena could be laid-up, or had to be wrecked.

Delhaas had to put these questions before Mr. Pieters. Delhaas did not mention any offers on the ship. He did said, that incase Mr. Pieters would decide to sell the ship; candidate buyers would will be invited to make an offer. When I returned that

evening at the group office, I heard to my surprise that the ship already was sold. I heard that Heuvelman had bought the whole ship for f. 14,000-. The other day I heard that the ship was sold to V/d Marel. That Wednesday, September 26, 1979, I was onboard RP-9 to convoy the ship from Willemstad to Zierikzee. Underway, Brouwer, and I have made a list of the inventory of the Magdalena. In the Volkerak Lock, People from Radio-Control took all records and tapes from the ship. Of course, with the consent of the buyer/owner V/d Marel. During the transport, there was no need anymore to pump on the ship.

September 27, 1979, again I was together with Brouwer at V/d Marel's place. He told us that the ship was okay and didn't need anymore pumping. I did not regard the condition of the ship as such that this quick sale and demolishing was necessary." After rereading and he confirmed, L. Knoop undersigned the concept-report.

On April 14, 1980, I, Inspector Gaastra, have heard:

André Pieter Mensert S P A A N D E R M A N – age: 55 years, Officer State Police, living at Dordrecht, Who stated: "I am districts commander from the State-Police, district Dordrecht. Under my command is also the Group Willemstad. Me was known that personnel from my district were cooperating with the Radio-Control-Service from PTT, in the case of the Radio transmitter ship Mi-Amigo, Magdalena. This ship was placed under custody on Friday, September 21, 1979.

On Sunday September 23, the ship was saved and transported to Willemstad on Monday September 25, 1979, and moored in the harbor. Short before mooring, I was onboard of Magdalena for about 15 minutes. During that time, Theunisse was towing the ship alongside. As far as I remember, they were also pumping on the ship. I have taken a quick look on the ship as far as this was possible. The ship looked badly maintained to me. When it was moored and I heard that pumping was necessary continuously, and the salver in the mean time had ordered new pumps for that, who were delivered during my presence, I have advised, considering the high costs for a lengthened keeping of the ship, to request a expert from Ships-Service, to give advice to the officer of justice about the best choice what to do with the ship. Considering the work to keep the ship floating, it seemed necessary to me to have an expert present as soon as possible. Reasonable short after, Mr Rijpkema showed up from Ships-Service, together with Adjutant Delhaas, who made a tour on the ship to inspect it. Later this expert reported at the Group office, in my presence that the costs for a lengthened keeping of the ship would rise

above the value of the ship. Personally, I also had the impression that the keeping and the transport to the storage-harbor at Rotterdam or Amsterdam would take a lot of money.

In my presence, Rijpkema and Verveer had a phone call with Mr. Pieters. As far as I remember, they told Mr. Pieters that the ship was only fit for demolishing. I don't remember if and how many technical details were conveyed to Mr. Pieters. On your question if I have pushed Rijpkema, to make such a description of the ship, that it could be sold quickly; I answer you that I have met Rijpkema onboard the ship and that I gave him my opinion, that the ship was indeed only a wreck, and that a lengthened keeping without high costs appeared unrealistic to me. As far as I know is based on the report from Rijpkema, that Monday afternoon, advised to Mr. Pieters to have the ship being demolished. You are pointing at Art. 117 Sv; and asking me whom I regarded as the Keeper of the Goods under custody. I answer you that in my opinion this was Adjutant Kamp. Because he had taken in the goods under custody, after consult with Mr. Pieters. I also believe that Pieters had instructed Kamp to send him, already the other day, a report about the condition of the ship. You are pointing me to the 3e part of Art. 117, Sv, which speaks of the keeping of goods for a prolonged time; in which case not the Attorney-General but the Court, before which the case will be brought to; shall decide about a consent to Removal of the Goods. Time has learned that a Courts Decision, considering goods in custody, can take years. One of the reasons can be that the Owner of the Goods is not known.

You are asking me if the inspection from Rijpkema, who you describe as very short and surely not thorough, can be a basis on which the officer of justice in such an important matter can decide to the Removal of a whole ship. (Reporter is mentioning here the fact that no divers were ordered to inspect the ship, and the fact that the next day, Tuesday September 25, 1979, the repairs were done in a couple of hours.). I tell you again that we were depending on the expertise of an Expert. In my opinion, his advice was based on the high costs to make for a lengthened storage of the ship.

-Regarding the sale of the Magdalena, I state as follows: That Monday afternoon, 09-24-79, is as far as I know, after reporting to Mr. Pieters, in principle already decided to sell the ship for demolishing. Following the talk with Mr. Pieters are, as far as I know, a few candidate buyers invited to make an offer on the ship. As far as I know, Mr. Rijpkema was negotiating with them. The name Timmerman is also mentioned in this. I believe Adjutant Kamp came with this name. Later I have heard that also Heuvelman was invited. As far as I know, Mr. Pieters and Kamp

further handled this case. Names of other candidates I did not have heard. Beginning this sale was first assigned the group office as the place to receive the offers. However, because Adjutant Kamp had already worked all night, it was decided that Adjutant Verveer at the districts office would receive the offers from the candidate buyers. This is everything I know about the sale of the ship.

The next day I heard that Timmerman made an offer of f. 11,500-, and Heuvelman f. 14,000-. Later I heard that Adjutant Kamp, on instruction of Mr. Pieters, has made a Bill of Sale for the transaction with Heuvelman. I hear from you that after the sale, there were goods on board which had nothing to do with the committed offences, but by the sale became property of Heuvelman. I did not know that. Normally these goods are to be returned to the owners. In addition, I hear from you that during the transport of the ship to Zierikzee, goods like records and tapes are taken of the ship and taken in keeping as goods under custody. Also this, I did not know.

- To close with, I state to you that, when I heard by coincidence on Sunday September 23, 1979, in the morning, that salvage of the ship was indeed possible, I was very surprised, and not happy with it. Because the ship could easily had been left abandoned, to be taken by the sea. I did foresee the high costs of this operation. That is why I immediately have instructed Kamp to get the consent from Mr. Pieters for this. This did also happen. The invitation of an expert was in the light of the care that justice and Police had to give this ship, during a long time, very understandable. The sale of the ship appeared not irresponsible to me, after the report of the expert and the consent of Mr. Pieters." After rereading and he confirmed, Colonel Spaanderman undersigned the concept-report.

NO CURE-NO PAY



Versus

The Dutch State

De MI-AMIGO Chronology

By

Geert Theunisse

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Part-5

On March 14, 1980, I, Inspector Gaastra, have heard: Willem P E T E R S E N — age 60 years, (Retired on January 1 1980 as Sergeant Major State-Police), living at Willemstad, Who stated:

“Until January 1, 1980, I was assigned as deputy group commander to the Group Willemstad from the State-Police. On Friday September 21, 1979, I was on duty at the office at Willemstad. A few days before, we had received information that the radio ship Mi-Amigo, Magdalena, was thrown of her anchors, and drifting towards the Dutch coast. As far as I remember, this ship went aground in the night of September 20 to 21, on the “Aardappelbult” in front of Goeree. The available Crew from the group was directed to Stellendam. From there they went to the Magdalena, in the company of people from the districts office and people from the

Radio-Control-Service, onboard the buoy age ship Delfshaven. Mr. Roth from Radio-Control did have had contact about this event with Mr. Pieters. The districts detective had called me about this. I believe this is how it went. You have to see it like this: This case, with this illegal radio-ship, was first the business of Radio-Control. They had contacted with the districts office, which had contacted the group of Willemstad only because the ship was grounded in our surveillance area. I understood this was for the apprehending of the suspects and the placing under custody of the illegal transmitting equipment. When the group arrived at the position of the ship, they noticed that they could not approach the ship because of the shallow water. Because of that, they have launched a sloop, after which they were able to apprehend the Crew. As far as feasible, they took the necessary goods in custody. The same day, a tugboat from Smit-Tak went to the ship. I have heard that this Firm has had contact with Mr. Pieters, who had told them that the ship was fine there, and that he was not interested in an immediate salvage of the ship. When a ship is stranded and abandoned, in general, it will come under the care of the Dutch State. The Department of Traffic and Water decides then what will be done. As far as I know, after the apprehending of the Crew, Mr. Pieters did not have had interest in the ship any more.

In the weekend of Sunday, September 23, 1979, I was free of duty, and came back on Monday. That day, I have heard at the office what the adventures from Kamp and his Crew were. Not knowing all details, I believe, considering what I just told you, that Pieters had lost his interest in the ship; I would not have made this decision for a salvage operation. If I would have been on duty that weekend and the officer of justice would have asked me to save the Magdalena, I would have had told him that this was not our task, not trained for, not equipped for, and that big risks could be involved with this. In this case, Mr. Pieters did not order anything like salvage.

From the daily report of the Districts-Radio-Room, one can read that Kamp, around 11.00, asked Theunisse for the salvage of the ship, under a No Cure-No Pay condition. In these notes is written, at 12.00, that it was not necessary to inform the officer of justice. At 12.20, Colonel Spaanderman is asking Kamp to inform Mr. Pieters after all about his steps taken. About this the boat commander of RP-9, Heimensem did also confirm already. The same notes show that at 16.19 Kamp reports that the Magdalena is floating again, which was also reported to Mr. Pieters. Later I had a conversation with Mr. Pieters about this case. He asked me than who had given the salvage order. I told him not knowing that, but that I

assumed he did this himself. Pieters told me that he did not know a thing about it, He was not at home that day.”

The hearing of witness W. Petersen was continued on March 18, 1980.

The appearance before the Judge-Commissary at The Hague.

“After the salvage, problems occurred about the amount of around f. 80,000-, on which salver Theunisse claimed to be entitled to because of his work on September 23, 24 and 25, 1979. Theunisse hired a lawyer and he thought it necessary that the Policemen involved in this operation, would have to be heard as witnesses before the Judge-Commissary. Seven Civil Servants were called for to appear on November 19 1979 before the Judge-Commissary. These colleagues were called for by writing according the Law. On November 16, 1979, in the morning, I was called by Mr. Gratama, who, on behalf of the States-lawyer, gave me the following message:

On November 19 did not have to appear seven, but only two witnesses, which two witnesses must be unimportant, being witnesses who did not know much about the salvage. The other five witnesses would be called on another date. Mr. Gratama asked also if it could be possible, that the two witnesses, who would show up at the hearing, could have had a meeting with him first. Because this was a strange thing for me, I asked Mr. Gratama if the called off witnesses would receive a written message about this. In addition, I asked him if they would not get in trouble with this. Gratama answered me: “Absolutely not, I can put my fingers up for that. This case is by me consulted over about with the lawyer from Theunisse and the Judge-Commissary.” Later, it appeared that neither the Judge-Commissary, nor the lawyer from Theunisse was informed about this case. This decision from Gratama is fallen very badly with the five called off witnesses. They were upset about this, because as Policemen they know that they are obliged to appear at a Court when they are called for to do so.” After rereading and he confirmed, witness Petersen undersigned the concept-report.

On March 24, 1980, I, Inspector Gaastra, have heard:

Cornelis Hendrik S L A B B E K 0 0 R N – age: 33 years, Sergeant Major State-Police, living at Willemstad, Who stated: “I am as boat-commander assigned to the Group Willemstad of the State-Police. On Monday, September 24, 1979, I was on duty on the RP-28 together with sergeant Kroes. That afternoon, around 15.00, the Radio transmitter ship Mi-Amigo was towed into the harbor of Willemstad by

salver Theunisse. The Police was assisting with the RP-9 and RP-28. About one hour before, we had taken Colonel Spaanderman and Adjutant Verveer onboard RP-28, after which we approached the towed Magdalena. Near the Haringvliet-bridge, the Colonel and his aide went onboard the Magdalena for some minutes, after which we had brought them back to the office. When the Magdalena was moored in the port, the Colonel, Kamp, Verveer, and an unknown person to me, who was taking a few pictures, were onboard Magdalena for a while. This was in the afternoon, but I don't remember the exact time. The, to me unknown man, took a few pictures of the Studio's onboard. In addition, Adjutant Delhaas and a man from Ships-Service were onboard at that time. Later I heard that this was Mr. Rijpkema. I remember I went into the engine-room with him. There were pumps running. I have seen some water, but this was not alarming at all. The pumps could handle the incoming water easily. Theunisse and two or three from his Crew were also onboard of Magdalena and/or the two salvage ships.

I remember that the RP-28 was shifted a little, on request of Theunisse, to free one of the salvage boats, so he could go to de dock. Why he had to go there, I don't know. Later I heard that he had to pick up somebody from the shore, which I didn't see. I have seen that Theunisse went onboard Magdalena, and into the engine-room, together with a man, unknown to me. I was present during that visit. I understood that it was a business visit. What they have spoken about, I don't know, like I said, It seemed a business-like meeting to me. I did not see Theunisse introducing this man to Kamp. Later I have heard that this man was Ooms from Bogenda. Now I mark here that I was not all the time in the company of Theunisse and this man. How long he stayed onboard, I do not know. I did not see him leave. That afternoon, several people were onboard for there own reasons. My task was the guarding from the ship. Onboard were various goods like records, tapes, and personal belongings from the Crew. We were seeing to it that no unauthorized persons came onboard.

That Monday afternoon, we had also a few people from the Press onboard RP-28, who liked to make pictures from the ship. These people were not allowed onboard of the Magdalena. As far as I remember, Adjutant Kamp, (dressed in uniform) left that afternoon around 17.30. Now I mark here that I am almost certain that he was onboard all the time. As far as I remember, Spaanderman, Venema, Verveer, and Kamp left together, but Kamp came back between 17.00 and 17.50. Then he told me that in the evening Timmerman and another candidate would show up. When he left, he reminded me of it again, that a few people would come to see the ship.

In the afternoon, I had already heard that they planned to sell the ship as soon as possible. I do not remember who told that, but it was between colleagues.

You are asking me if I think that Theunisse that Monday afternoon (09-24-79) could have had known about plans for a quick sale of the ship. (Reporter is asking this question because he had the impression that the contacts between Theunisse and other salvors on one side and the State-Police personnel on the other side, was very frequently.)

I remember me that I asked Theunisse that afternoon: "Why don't you buy it man?", but it was not seriously meant or taken. He answered something like, "I am a salver, not a wrecker." When he was leaving that afternoon, Kamp mentioned Timmerman as a possible buyer. Around 18.00, a van stopped at the dock. I took the occupants onboard RP-28. One introduced himself as Timmerman and the other, I believe as Heuvelman. Those people went onboard from Magdalena. At that time, Theunisse and his Crew had already left the ship. You ask me if Rijkema was also present. I tell you that I do not remember that. Timmerman and the others stayed onboard for about 10 to 15 minutes. You are asking me about the situation, in which the Magdalena existed, that Monday afternoon, (09-24-1979), if there was still the danger of sinking, or if there were other circumstances to be concerned about the ship. I answer you that the leaks in the ship were not as such that one could speak of any danger. Two small installed pumps were easily able to handle the water. A very little amount of oil-sludge came out with the water, but this was insignificant. Otherwise, I had ordered Theunisse to pump the water into a bilge-boat". After rereading and he confirmed, witness Slabbekoorn undersigned the concept-report.

On March 15, 1980, I, Inspector Gaastra, have heard:

Jochem V A N D E R S L U I S, age: 35 years, Sergeant from State-Police, living at Willemstad, Who stated: "On November 19, 1979, I have stated before the Judge-Commissary, Mr. Reisig, at The Hague, in a preliminary hearing, in the case of the salvage from the radio transmitter ship Mi-Amigo, Magdalena; on Sunday, September 23, 1979 at the North Sea, in front of Goeree. The preliminary hearing was held on request of the lawyer from Theunisse, being a salver at Dinteloord. Purpose was to establish if there was a salvage order given. I wish to refer to my statement in that hearing, in which one can read that a conversation took place in the port of Stellendam on Monday, September 24, 1979, around 07.00 or 08.00, between Theunisse and Adjutant Kamp regarding the possible sale of the saved

ship. This conversation took place in the wheelhouse from RP-9. There was spoken about the value and the sale of the ship. I am almost sure that Kamp asked Theunisse if he was interested in the ship. Theunisse answered that he had no use for the ship, that he had no time to demolish it, also that he had no personnel to do this job, and in short, it was not his line of work. Theunisse did tell Kamp that he would contact people who could be interested in the ship. How the conversation turned to the sale of the ship, I do not remember.

The question was, at that moment: Were to go with the ship? It could not stay at Stellendam. Contact with Department of Water was pending for mooring at Willemstad. You have read to me a paragraph from the report from Adjutant Kamp and Heimensem, which states at page 4: "Theunisse thought his work as ended at Stellendam". I was present during the conversation about the part about the possible transport by Broedertrouw. It was like this: Theunisse would take the ship first to Willemstad and after that, Broedertrouw could possibly transport the ship to the storage harbor at Rotterdam. After Theunisse had finished his salvage, than, Broedertrouw could transport the ship to Rotterdam, into the care of Dominions as goods under custody. Therefore, Theunisse did not think that his task was ended at Stellendam. From the conversation and the actual facts, it is clear that it happened as I state here. Therefore, I think that Theunisse would provide for possible candidates for the ship, as he had told Kamp, as I stated before.

On Monday, September 24, 1979, around 08.00, I mean short after the above-mentioned conversation, I went home. That afternoon, I was back onboard of RP-28 for a while. I did not see or hear anything about possible candidates for the ship. In addition, I have seen Kamp onboard RP-28, that afternoon. A few days after the salvage of the Magdalena, I heard that there was a problem about the salvage claim, made by Theunisse, of something like f. 80,000-, while the ship was sold for only f.14, 000-. Short before Theunisse went to Kamp, to present him his salvage claim, he had coffee with us in our canteen with a few colleagues and me. Theunisse was not pleased that the ship was already sold and without his knowing. He spoke also about his right of retention, but he said that the first important thing was, that he would get his bill paid. Before I came in service as a State-Police member, I was working as a Merchant-Marine-Officer. During my education at the Mariners-School at Terschelling, I served on many trips with a salvage boat. In that time, I received several times, percentages of salvage rewards. Therefore, I can say that I have some insight in the value of saved ships. With this knowledge, I can tell you that it appeared very strange to me that this ship was sold for such a low price. Adjutant Kamp told that the price was that low because the ship had to be

sold quick and everything was just scrap iron. The costs for storage and keeping of the ship would otherwise get to high. I did not inspect the ship, so I cannot state here that the ship had to be sold that quickly.” After rereading and he confirmed, witness Van der Sluis undersigned the concept-report.

On April 1, 1980, I, Inspector Gaastra, have heard: Arie V E R V E E R — age 55 years, Adjutant State-Police, living at Dordrecht, Who stated:

“Until March 31, 1980, I was assigned as staff-Adjutant at the district Dordrecht, State-Police. From today, I am assigned as group commander, State-Police at Willemstad. On Friday, September 21, 1979, at the districts office, I was for the first time involved in the case of the transmitter ship Magdalena. We had received information that in the night from Thursday to Friday September 21 1979, this ship was thrown of her anchors and drifted into territorial waters.

Adjutant Venema from the districts detective group have had in the previous days extended contacts about this with the officer of justice at Amsterdam, Mr. Pieters, and with the Radio-Control-Service. As far as I know, Venema and Pieters had contacted, to discuss the possibility of bringing the Mi-Amigo into a Dutch port. I remember that Pieters asked Venema to advise him about which salvage firms could be asked for doing this job. I remember that Venema and I did not wish to be involved into commercial affairs. This is why Venema took care, that the contact between Pieters and Smit-Tak was not established true our office, but was made directly.

That Friday night, personnel from the group Willemstad with in charge Adjutant Kamp, went to the ship. I do not know if the ship was placed under custody already then, but I do know, via the Radio-room, that the Crew was arrested and taken off the ship. The ship was abandoned. From the coast from Goeree, members of the group Willemstad have observed the ship. -Sunday September 23, 1979, in the morning, I heard from the radio-room that Kamp was busy with the salvage of the ship. I knew that the RP-9 would go to the ship, on instruction of Mr. Pieters, to destroy the transmitter and to take goods of the ship, and to bring these goods to Willemstad. When I heard that Kamp was busy to pull the ship afloat, I contacted at once with Colonel Spaanderman. From his reaction, I learned that he already was informed. Then I told Spaanderman that this action of Kamp was against the instructions. I was convinced that Kamp had made a decision, for which he was not allowed. Spaanderman told me: “It appears that Kamp called that Theunisse fellow and had asked him, if possible, to save the Magdalena on this No Cure-No Pay

basis. But what will happen when there is Cure? Then Pay will follow!" "Because I do not believe that Pieters knows about this, I have already told Kamp, via the Radio-room, that he must make contact with Pieters to ask his consent for this action." That Sunday, I did not hear more about the salvage.

The next day, Monday, September 24, 1979, I went, together with the Colonel, to Willemstad. We sailed with the RP-28 to the Magdalena, which was being towed to Willemstad. During the transport, we went onboard from the Magdalena for about 15 minutes. After the mooring at Willemstad, I noticed that Kamp and Theunisse got along very friendly with each other. They were enthusiastic about the salvage. Already then, I got the idea: How will these ends? That is why I have distanced myself a little from this case. In my opinion, Theunisse had done his business with Kamp in the first place and second with the districts commander. Then I went to the groups' office, together with Spaanderman. There I have made contact, by telephone, with Mr. Pieters, in the presence of Spaanderman. I told him what had happened. During this call, Pieters said:

"Adjutant, do you not agree with me, that Mr. Roth and his Radio-Control-Service did have had enough attention now. We are only talking here about 7 measly little miss demeanors, that were committed." Following this, Colonel Spaanderman had a talk with Mr. Pieters. Spaanderman pointed out to Pieters that the ship was in a very bad condition and that he would like to see it removed as soon as possible, before more problems would occur, like sinking. This was very possible, because that afternoon, the ship was still leaking, which needed constant pumping. Mr. Pieters was advised, before Removal, to have first the ship being inspected by the Shipping-Inspection, or another Government service, which could do this inspection. Mr. Pieters agreed with this, but requested to be kept informed about the matter. Then, I made contact, in the presence from Spaanderman, with the Shipping-Inspection at The Hague. They told us that this kind of inspection was a task from Ships-Service from DGSM. Until then, we had never heard from this Service. A member of this Service liked to make an appointment for the next day. The Colonel, who heard this, said: "This takes to much time. Try to push it to their coming this afternoon." After some pushing, we got the appointment for that day.

A Mr. Rijpkema from this Ships-Service would go underway to Willemstad. After this phone call, we went back to the harbor, I was away for a while to Willemstad, and when I came back, Mr. Rijpkema had arrived and obviously had started his work on the ship. Adjutant Delhaas assisted him. I remember that the Colonel had asked Rijpkema to finish his report quickly. That afternoon, I have seen Adjutant Kamp, with his wife, near the Magdalena. During the afternoon, submersible

pumps were delivered at the harbor. The Colonel told me than that it would cost a fortune to keep the Magdalena floating. That is why he would have the ship removed as soon as possible. Decided was that guarding was necessary for the time that the ship remained there.

That afternoon, around 16.00, short before our departure, the Colonel asked me if I was home that evening to receive possible offers on the ship from wrecking firms. Although I still wished to keep distance from this affair, I understood that I could not refuse this request, because it could look suspicious if Kamp had to do this in these circumstances. On your question, if before already was spoken about wreckers, I answer you that this was the first time I heard about it. Again, I did not have the slightest interest in this, in my feeling, tricky matter.

Now I mark here that the Colonel was very critical about this salvage operation. He told me that very clearly. I mark also that before we left, back to Dordrecht, again we had contact by telephone with Mr. Pieters and informed him about the progress in the matter, also about the inspection of the ship by Mr. Rijpkema from Ships-Service. He, Rijpkema, had stated that the ship had only value as scrap metal. In addition, I remember that the Colonel promised Mr. Pieters that Rijpkema himself would make contact with him. In this talk, Mr. Pieters told that the ship could then be removed, -considering Art. 117 Sv-. But before that, he had to consult the Attorney General.

I did not meet that afternoon with Mr. Ooms from Bogenda. Adjutant Kamp was not present during the talks we had with Mr. Pieters. You are asking me, how it was possible that the Colonel told me: "You can expect to be called this evening by owners of scrap yards." While you did not hear anything about this, that afternoon. I answer you that I think that the Colonel did talk about this with Kamp and/or Rijpkema, in my absence. You ask me how it is possible that the Colonel gave order to Kamp to make contact with Pieters, via Scheveningen-Radio, instead of doing this himself, and then on Monday morning takes the initiative to make it his business to get the ship removed by wrecking it, as soon as possible. I answer you that I also had thought it more logical; to have himself had contact with Pieters. About his business with the sale of the ship, I think he did that because that afternoon, he was directly confronted with the problems and difficulties. That evening, 09-24-79, around 19.00, I got a phone call from a person, who introduced himself as Timmerman from Ooltgensplaat. He told me that he was approached to do an offer on the Magdalena. His offer was f. 11,500-. Some time later, about an hour, a person named Heuvelman from s-Gravendeel called me. He made an offer of f. 14,000- This Heuvelman told a long story about the Magdalena, which came

to the point that his offer was so high, that he probably would lose money on it. In addition, he told that he expected a reaction on his offer the next day, before 10.00 at the latest. I remember this had to do with a meeting he had to attend to that morning, or in which meeting they had to decide about this ship. Colonel Spaanderman had instructed me to convey these offers to Mr. Pieters. I have tried to call this officer several times that evening, without success. The next morning I made contact with the group Willemstad. Mr. Delhaas picked up the phone. I understood from him that he was appointed to bring the report of inspection of the ship to Mr. Pieters. I asked him to make a note about the offers from Timmerman and Heuvelman, from the evening before, en to give this note also to Mr. Pieters. Delhaas expected to leave for Amsterdam around 09.00. To close with, I state that the Bill of Sale, you are showing me, I have seen at the office, but probably after my vacation, around October 15, 1979." After rereading and he confirmed, witness Verveer undersigned the concept-report.

On March 21, 1980, I, Inspector Gaastra, have heard:

Henricus Petrus Cornelis V A N D E W A T E R, age: 32 years, Group administrator, living at Roosendaal, Who stated: "My task is the administration of the Group Willemstad of the State-Police. On Monday, September 24, 1979, I was working at the office. That morning I heard that the Adjutant Kamp would be late that day, because he had worked all day and night before, during the salvage of the radio ship Mi-Amigo, Magdalena. I don't remember if Kamp did show up at the office that day. On Tuesday, September 25, 1979, the former sergeant major Delhaas went to Amsterdam in the morning, to bring Mr. Pieters the report of inspection from the Magdalena. That Tuesday, I was at the office from 08.00 until 16.00.

The administrators answer all incoming calls. I am almost sure that Mr. Pieters did not call at the office that day. My colleague Van der Heem also says that to his knowing, this had not happened. The possibility of someone else picking up the phone is almost none. You are showing me the Bill of Sale, and the report, regarding the transfer of the Magdalena (nr. 624/ 1979 dated October 1, 1979). I have typed this document on instruction from Adjutant Kamp. I don't remember exactly when I did this, probably on October 1, 1979. I don't remember if Heuvelman was at the office, September 25, 1979, or the day before. I believe Kamp went two times to Heuvelman with the Bill of Sale. According to his desk agenda, Kamp went to Heuvelman on October 2, 1979, to have the Bill of Sale

undersigned. According to the travel-expenses-declaration from Kamp, he was indeed on October 2 to s-Gravendeel, the place where Heuvelman is living.

On Tuesday, September 25, 1979, around 14.30, I have seen salver Theunisse at the office. He was present at Kamp's' office. I am almost sure that Theunisse left very angry then. Then, at that time, I did not understand why Theunisse, who is always friendly, was so upset. That day or the day after, I heard that Kamp, short before the arrival from Theunisse at the office, had instructed the Crew from RP-28, to tell Theunisse to quit all his work on the Magdalena, because from 14.00, the ship was sold.

- Regarding the alterations in the report nr. 631/79 dated October 1, 1979, from 1e sergeant P. R. Van den Berg: I state you as follows: On request of, and conducted by Group-commander Adjutant Kamp, I have altered the report from Van den Berg on a number of points. Van den Berg wrote in his report regarding the salvage of the Magdalena the following paragraph:

“After the group commander was informed about these facts, I, van den Berg, have heard that the group commander, via the mobile, and via the Radio-Room, on the condition No Cure-No Pay, requested the salvage firm Theunisse at Dintelsas for the salvage of the Magdalena. Via the Radio-Room, this salvage firm gave as answer that he accepted this condition and promised to sail out directly.”

Kamp told me to erase this paragraph from this report. He gave as a reason that this part would be mentioned in the report from himself, together with Heimensem. The following two paragraphs from the above-mentioned report from Van den Berg were also to be left out in the new report:

“We concluded from this that the ship went aground again. --- (This proved impossible because the echo sounder from RP-9 showed a depth from 8 meters. This was told to us from the RP-9 by radio.) ---. Were after the ship made more list. At that moment, the ship made water so fast that it very surely would have had sunk; if not at 17.15, Furie-2 from Theunisse, had come alongside, and started pumping right away. At the moment Furie-2 came alongside, Magdalena had a list of 30 – 40 degrees to Portside.”

“After a while, it seemed that the water level did not go down quick enough. That is why a third pump was installed, from which a 6” hose was placed in the Hold. Now it was possible to pump down the water level quickly.”

You are asking me why these paragraphs did not have to be placed in the new report.

I answer you that Adjutant Kamp did not tell me that. The alterations were done first. Only after they were finished, it is told to Van den Berg. After that, Van den

Berg did undersigned the report. It appeared strange to me that everything that had to do with the salvage order had to be taken out from the report from Van den Berg. To close with, I mark here that; in the report made by Kamp and Heimensem, on page 2, after the message to Theunisse, that the RP-9 had pulled the Magdalena from the sandbank; I was instructed by Kamp to type in this additional sentence: "What the hell are you talking about?!" After rereading and he confirmed, witness Van de Water undersigned the concept-report.

The questioning of Rijpkema was continued on May 8, 1980. He stated:
 "You are asking me, how I was regarding my task on September 24, 1979, That Monday afternoon, when I, on request of the State-Police, went to the harbor of Willemstad, to inspect the condition and the situation of the Magdalena. I answer you that I had the task to inspect the general condition of the ship."

Q. Reporter:

Why were you invited, what expectations may a requester have from you?

A. Rijpkema:

"In general, one may assume that members from the State-Water-Police have also certain knowledge of ships. In this case, I could assume that they already had a certain opinion about the ship. To give this opinion ground, they probably invited our Service to do an inspection. I state hereby that members of the Police did not try to influence me in my work. They were expecting an objective opinion of me, and also an advice."

Q. Reporter:

Did you know Monday afternoon, that your advice could have had great impact on a short-term decision about the ship?

A. Rijpkema:

"I did not know that. Almost immediately after I had inspected the ship, Mr. Delhaas, on the group's office, made a report of my findings, but it surprised me that the ship, -as you tell me now, based on my report – was sold so quickly."

Q. Reporter:

Did you have contact by telephone with Mr. Pieters, that Monday?

A. Rijpkema:

“I did not have contact with Mr. Pieters that Monday. After I had put my findings on a piece of paper, Delhaas typed the report. In that time, I went to the second floor with Verveer. I don't remember if Verveer had called Pieters.”

Q. Reporter:

According to the notes from Mr. Pieters about that Monday afternoon, (09-24-79), somebody told him that the ship made 12 Tons of water an hour, to be exact: 5 Tons in the engine-room and 7 Tons in the Hold. What is your reaction on this?

A. Rijpkema:

“These figures are totally unknown to me. During my tour on the ship, people were busy with hoses. There was water in the engine-room and in the Hold, but not much. I would not have had given these figures to Pieters because it's too difficult to estimate this. I would need more information as an expert, to be able to give such figures. The fact that a ship makes 12 Tons water an hour, can sounds alarming for an outsider. I did not contemplate about the amount of water. I told you that the ship was making water.”

Q. Reporter:

These notes from Mr. Pieters also show that on that Monday afternoon is established that the costs for temporary repairs would amount to f. 50,000-. Are you the source from this information?

A. Rijpkema:

“I guess so.”

Q. Reporter:

How could you give this figure, without having a diver inspected the ship and that the other day Theunisse did the repairs in a few hours?

A. Rijpkema:

“Considering the fact that the ship had been grounded on a sandbank, I could assume that there was damage to the bottom and chine's. I could assume that this was the reason for the leaks. To counter the most serious leaks, an emergency repair on the spot was necessary. The costs of f. 50,000- were not only for these emergency repairs, but also for the transport to a ship yard, and a better temporary repair, and the definitive emergency repair.”

Q. Reporter:

In you report dated September 24, 1979, nr. 607/79 is written: "In my opinion, considering the general condition of the ship is transport of the ship to the closest wreckers-yard necessary." In the conversation you had with Timmerman that Monday afternoon or evening, it probably became clear to you that Timmerman could not handle the ship, because it was too big to pass the Lock in front of his yard. Who was then the best yard to go?

A. Rijpkema:

"I knew that Timmerman could not handle the ship, but I mark here that in the past Timmerman had bought other ships that were too big and he have had them wrecked on other yards. In addition, he could have placed it outside the Lock on the sand. Other possible yards are, Rijdsdijk-Holland at Hendrik Ido Ambacht, or Rijdsdijk-Bos, Van der Marel at Zierikzee and also Heuvelman Steel BV at 's-Gravendeel."

Q. Reporter:

Why were these wreckers, except Heuvelman, not invited?

Rijpkema:

"Because in my opinion, these other yards were to far away from Willemstad. I was afraid for complications during the transport. Like leaking."

Q. Reporter:

Did you tell Timmerman that Monday that he and Heuvelman were the only candidates?

A. Rijpkema:

"I have told that to Timmerman. He asked me about it. I didn't consider that there possibly would be more candidates. I expected from Timmerman as well as from Heuvelman a reasonable offer. I cannot remember if they had to make their offer that evening or the next day to Verveer. Timmerman didn't mention to me what he was planning to offer. I was very disappointed about the both very low offers from Timmerman and Heuvelman."

Reporter:

Don't you think that your conduct is a reason for the low offers on Magdalena?

A. Rijpkema:

"I think that the offers from Timmerman and Heuvelman were too low. They made use of the circumstances. I mean that these two men are not stupid. I think that

they took the chance to do a low offer on the ship. I had the impression that the Police had their hands full with the ship, and Timmerman and Heuvelman made use of that. Now that you have pointed out everything to me, about the relations, my phrases to Timmerman, regarding the value of the ship, and that they were the only candidates, I admit that it can give the impression, that I am to blame for this outcome.”

Rijkema:

“To end with, I will mark here that I did not take any money or goods from Timmerman or Heuvelman.” After rereading and he confirmed, Rijkema undersigned the concept-report.

Reporter Gaastra marks here that –considering the statements of various witnesses, -the Adjutant J. Kamp will be heard again. Because Kamp stayed abroad, this hearing is still pending. This second hearing will be therefore recorded in an additional report. From which by us, reporters under Oath, is made this report, dated May 30 s-Hertogenbosch.

The reporters: L. J. de Louw, and S. J. Gaastra.

10)

MRS VAN DEN HEUVEL & FLESKENS

Report of the meeting with Secretary de Ruiter

Held in the Department of Justice Building at The Hague on Monday, August 18, 1980

Time of meeting from 12.00 to 13.30

Present are:

The Secretary of Justice, Mr. J. de Ruiter

Chef of Cabinet, Nelemans

Mr. Bos, Police Division

Mr. Gratama, Lawyer of State

Mr. Theunisse and the undersigned, as his lawyer on the other side.

1. PREFACE:

The Secretary opens the meeting and announces that he personally has taken notice of the documents on which the case is based. The Secretary is mentioning

a number of details, from which he concludes that they are unacceptable for Theunisse.

II. PROPOSAL:

The Secretary follows the standpoint from Theunisse that he is not helped with various measures and investigations, which are reaching beyond the discussion about the salvage and the remuneration of the salvage. The Secretary proposes (sans prejudice) to appoint an expert to establish remuneration, which will be reasonable for the work done by Theunisse. Both parties together must formulate the instruction to this expert. If Theunisse can agree with this, a number of irrelevant items can be left out of the discussion, among them, the question why this has taken so much time, and how the events could happen as they did. Theunisse follows the Secretary in his proposal and confirms that he also agrees with this type of solution. After talking over some practical details from this proposal, the agreement is formulated and accepted as follows:

A. Binding advisor:

In the first instance, both parties will request the, to both parties known, Prof. Mr. H. Schadee at Rotterdam. They will do that in mutual agreement. Prof. Schadee shall act as binding advisor, which means that both parties will confirm themselves with his advice. In case Prof. Schadee is not accepting his assignment, or if there are practical problems as shortage of time on short notice, then both parties will ask the President of the Court at Rotterdam, to assign another expert.

B. No discussion will be continued about the question if, or not, a salvage order is given. Mutual standpoint shall be that there is agreed upon that Theunisse did the salvage on the condition No Cure-No Pay from Lloyd's Open Form. The expert has to decide how much will be paid reasonably to Theunisse, for his work, considering the normal expenses and circumstances as: Risks taken, labor, equipment, time spend, etc. (1910 Treaty).

C. The value of the ship will no longer be limited to the amount of money received by the Government, by the sale of the ship. This relation is explicitly abandoned and shall not be revealed to the expert. In principle will this value be "left open" by both parties. The salvage will be presented to the expert based on the facts of the salvage, the circumstances, the carried out work, and for him with the question to establish a reasonable remuneration. If and in so far the value of the ship will be

crucial or also important for the salvage remuneration, this value will be reconstructed, but will be left to the discrimination of the expert. In case the expert wishes to receive more information, both parties will confirm to his instructions. The ship's value will be based on the normal market conditions of a free and voluntary sale and buy, from an "imaginary" ship in a comparable situation.

D. The intervention of the State-Police shall not lead to a sharing from the salvage fee. The salvage activities from Theunisse on itself will be the basis, not the question if, or not, there was "assisting" done.

E. To the expert shall be left the question, if Lloyd's Open Form, "no cure - no pay" is

allowing space for costs of legal and other expenses to be paid. If this will be the case then the expert will also give binding advice about these costs, everything in a wide sense. The Secretary is emphasizing here that not only the costs from the expert and the directly related costs for legal assistance in this procedure, but also the costs from Theunisse in the period from the ending of the salvage until now, shall be subject to the binding advice of the expert.

F. The Government shall in any case, pay interests and the procedure costs. The suggestion from Mr. Gratama to have this rule about the costs made also valid in favor for the State in case Theunisse will lose this procedure, is denied, and not agreed. The Secretary did decide that this was not agreed upon. The expert will only have to decide if Lloyd's Open Form conditions allow the salvor to claim additional judicial costs from his contract-party.

III. CLOSING:

After a resume of the agreement, for which content I mention to the above, the Secretary is ending the meeting. He concludes to being pleased that his proposal had proved to be acceptable. He says goodbye and is leaving the gathering.

Tilburg, August 20 1980. Mr. E. Fleskens

10)

Mrs Van den Heuvel & Fleskens

To Mr. Gratama, States lawyer

Case: Theunisse/State, TILBURG. August 20, 1980. Subject: CONCEPT-LETTER.

Dear Colleague,

After the meeting with Secretary de Ruiters from Justice, on Monday, August 18, 1980, I have tried as good as possible to record the essentials of the talks. You find them enclosed here. If you can agree with my recordings, I don't think it necessary that we need to have it officially confirmed about or something like that. Then we only have to find the formulation with which we can approach Prof. Schadee to bring the case before him. To prevent any dispute about it, I confirm to you that the Secretary primarily agreed that Theunisse has to be paid by the State for the salvage he has done. I conclude now that the State accepts after all, her responsibility for that, which implicates that the expiring-period of the case is postponed by this acceptance. If we for any reason, later on, should have to go Court anyway, I will be free to point to the fact that the Secretary during the meeting did accept the responsibility for payment and did promise to pay. The fact that parties are now only discussing about the amount of the payment is no subject to the rules of the expiring-period. The State therefore never can call on such an expiring-period in this case. If you cannot agree with this, I will have to find other ways to postpone expiring. May I have your answer soon? Yours truly, Mr. E. Fleskens.

11)

MRS VAN DEN HEUVEL & FLESKENS

MEMORY OF DEMAND

Case: SALVAGE AND TOWING COMPANY THEUNISSE, living at Dintelsas, Municipal Dinteloord, and demander, Counselor: Mr. E. C. P. G. M. Fleskens;

Versus: THE STATE OF THE NETHERLANDS, seated at The Hague, defender; Counselor: Mr. S.E. Gratama;

I. INTRODUCTION:

Demander (hereafter Theunisse) started on September 23, 1979, with the salvage of the MV. Magdalena, which ship was grounded on the "Aardappelbult, in front of the Goeree coast". On September 25, 1979, around 15.00, he stopped his works on instruction of the State-Police. On September 26, 1979, he served a claim for his work up to the amount of f. 80,000-, VAT excluded. After he had tried several times to collect his claim, he called for his counselor, who on his turn, called the Dutch State. For that, Theunisse had taken on the viewpoint that he had an agreement for the salvage, thru the State-Police, with the Dutch State. As a reaction came from the Dutch State the denial of the agreement and the denial of any obligation for payment to Theunisse. The counselor of Theunisse went into

action immediately, and requested for a preliminary hearing of witnesses. A lot of correspondence is done, and several meetings were arranged, while Internal-Affairs had conducted an investigation. Up to August 18, 1980, the State was keeping her once taken viewpoint that there was no agreement, and no obligation for payment. Because on the moment when Theunisse called for his counselor, the ship was already sold and on instruction of the State was under demolishing, it was not possible to take conservatory measures. These events have lead to the meeting on August 18, 1980 with his Excellence the Secretary of Justice. Then was agreed that the State would pay the salvage costs, for which parties would turn to you, to establish a reasonable salvage fee for Theunisse and to establish what costs the State should pay to Theunisse. For short, I refer to the mutual letter in which parties did turn to you.

II. FACTS:

Almost a year, parties discussed about the question if the State had to pay. Parties never have reached the point to discuss the claim itself from Theunisse and a possible discussion about the facts and circumstances of the salvage itself. We may expect tough, that parties do not disagree about the salvage itself, and the facts and circumstances around the salvage. Theunisse presents for this:

1. The salvage report from Theunisse as recorded by Expertise bureau Berex BV. at Rotterdam dated October 10, 1979.
2. The report of the salvage from Adjutant Kamp dated October 4, 1979.
3. Report from sergeant Van den Berg and civil servant/engineer P. Kamp dated October 1, 1979.
4. Report from preliminary hearing dated November 19, 1979.
5. Report from preliminary hearing dated December 21, 1979.

These productions are important for the reconstruction of the salvage, from which can be concluded that there are no discrepancies about the facts of the salvage. The detailed report from Theunisse about the salvage is fully supported by the other statements.

III. THE CLAIM:

A. The claim as served. Theunisse hereby produces his on September 26, 1979 served claim. The claim is divided in costs and salvage fee, to f. 80,160-. Theunisse had limited his claim to f. 80,000-, being 40 % from the value of the ship, estimated by him. Theunisse will explain on which grounds he had calculated his claim and the basis for his costs. Theunisse marks here especially that in

principle his salvage fee has to be established on a reasonable and justified amount, whereby Theunisse will say that these specifications do not imply that these are limiting or bounding for the amount of the salvage fee. Theunisse is giving these specifications only to explain which basic principles he has used and with which methods he had reached the salvage claim.

B. Correctness of the costs calculations:

1. General.

By examining the correctness, one has to take in account as follows. Theunisse is a professional salver, only occupied in inland salvages. His ships, Crew and equipment and also his "third party" risks are only insured for inland waters. The Furie-2 is not a large ship and has a limited draught. Earlier there was a larger salvage ship from a big Company present at the Magdalena, which could do nothing because it went aground also. From the statements from the State-Police, one can read that because Theunisse did have the right ship for the job, he was invited for it. The Furie-2 has no Certificate of seaworthiness. The Police knew this, plus the fact that the ship had no insurance for sea operations. In the by Theunisse at sub A of the costs used tariffs ad f. 400- an hour, are included, the costs of Furie-2, Orca, the Crew and the "over head" costs from both companies. The salvage ship Furie-2 is a tugboat, especially equipped for salvage operations with an insured value of f. 650,000-. Theunisse and an employee occupied this ship. A Company with whom Theunisse has a charter-agreement owns the Orca. In addition, two people occupied the Orca, and the insured value of this ship is f. 50,000-. The tariffs Theunisse has used are normal standard tariffs for inland jobs, with no special circumstances. Theunisse thinks it reasonable to put 100 % up on these tariffs for the following reasons:

- a. The job was done at sea. The amount of work, the nature of the work and the results are justifying a rise above the inland tariff.
- b. Because Theunisse had no insurance, he took a large risk.
- c. The salvage took several days in which the Crew had to work constantly and also night hours. The costs at sub C, D, AK are the really made expenses (see prod. 6)

C. Reasonable Salvage fee calculation.

Again, Theunisse remarks here that a resume here cannot be limiting or bounding. It is only estimation but in a reasonable and justified manner. In addition, a count of

all factors and a fixed calculation in figures can lead to unbalanced results. He will give the following factors:

A. Theunisse was invited at the moment that the Magdalena was grounded on the "Aardappelbult". The ship was therefore in a fairly safe and stabile position. The weather was good and the situation of the ship was unchanged for quite some time. Theunisse produces hereby the report from the Radio-Room at Dordrecht, from which one can read that Theunisse did asked extended information about the situation and the circumstances of the ship, before he agreed on the invitation for the salvage. For it was of great importance for him, to know everything possible, because he took a big risk with this job. Because he received 100 % positive information, Theunisse thought he could take the risk. Short before Theunisse arrived at the position of the Magdalena, the State-Police had pulled the ship off the sandbank. The ship made heavy list immediately. I refer hereby to the various reports. On the ship were Police members present. These Police members, with the ship, were in immediate danger. Theunisse went into action at once, without further thinking about if, those risks were allowed to take. Various Police members were unanimous in there opinion that without the fast action of Theunisse, or a small delay for some reason, would have caused the sinking of the ship.

B. The situation at the beginning of the salvage was now much more dangerous than at the moment Theunisse was chartered. The Police caused this.

C. Immediately after he arrived, Theunisse has brought the Furie-2 alongside the Magdalena and has put pump hoses into the Holds of the ship. Meanwhile the ship had a list of 30 – 40 degrees.

D. In the Holds of the ship were placed large, empty, tanks, which were attached with angle-steel to the cargo-heads. Probably one tank had come loose already. There was great danger that the other tanks would break loose also, which would have had devastating effect. At that time, one of the Crew from Furie-2 was in the Hold, up to his chest in the oily water, handling a pump hose.

E. Not only there was imminent danger for loosing the Magdalena, but also for loss of life's, boats, and equipment. The Police members onboard the Magdalena wished to go off the ship just before the arrival from Theunisse, because they thought it irresponsible to stay onboard any longer.

F. By pulling off, the ship came in deeper water were it could have had sunk.

By the fast and adequate action from Theunisse is prevented that the ship indeed did sunk. The State had than have had to it saved for a multitude of the money of the present salvage- claim. In addition, this prevention of the very expensive salvage in such a case has to be counted in the salvage reward.

G. The salvage took 31 hours of constant and continued work, which was a heavy load for people and equipment.

H. The interests for the State as Holder of the custody on the ship and as the Keeper were great. Also great were her interests as manager and owner of the territorial waters.

I. The saved value normally is also a factor for establishing a salvage reward. In this case, this factor is a difficult one, because the ship was wrecked a long time ago. Between parties is agreed that the actual sales sum is not bounding for the real value. If you as binding advisor finds the value so important that you need more information about the value, then parties have to go on from a situation in which the ship was not sold and is remaining in the state as saved, and assuming a willing seller and a willing buyer present. Also without any time limit, like put on by the State at the sale and wrecking of the ship. If necessary, the expert would have to make a calculation of the real value. For pragmatic reasons Theunisse proposes to have this discussion only after that it is proven necessary, that this value is important, and about which information is needed for this factor.

J. The salvage order was ended on instruction of the State-Police. At that moment, the salvage was completed with full success. Theunisse is assuming without any doubt that at the moment he had to leave the ship, the leaks were stopped and that he had saved the ship from total loss.

IV. COSTS AFTER THE SALVAGE:

Between parties is agreed that also the legal costs made by Theunisse will be paid back to him. Also, that you will speak out about these costs. For that, you don't have to limit your calculation to the direct costs of this binding advice procedure, but instead, about the total costs which Theunisse had to make for getting payment of his salvage claim. Theunisse has offered many times to talk about his claim. However, because any liability was denied by the State, these talks were never held. The costs are rubricated as follows:

A. Costs counselor.

These are the costs from the counselor from Theunisse, made from the moment that Theunisse has turned to him. These costs can be calculated based on time spend and office costs. If this specification is necessary, then counselor will deliver this.

B. Costs of expertise.

These costs include the costs Theunisse had made for the valuation of the Magdalena by a valuation and expertise bureau, for which is received an invoice. If

you agree with Theunisse that these costs should be paid back, Theunisse will deliver the invoice.

C. Process-costs.

Due to the preliminary hearings, Theunisse had to pay procedure costs. Also extra costs were paid because of doings of the State; Theunisse was forced to call on the witnesses via a procurer. These costs are high. Theunisse will deliver the specification if asked for.

D. Costs and time spend from Theunisse himself.

It must be clear that Theunisse and his counselor during the past 12 months were very intensive occupied with this case. Theunisse had many meetings at The Hague and spend many hours during the questioning from Internal-affairs. Theunisse thinks it reasonable and justified to receive therefore a payment, more so, now Theunisse had no part what so ever, in the delay of the discussion about and the payment of a reasonable salvage reward.

E. Interests:

Theunisse is claiming the legal interests from September 26, 1979, the date he served his claim to the State. Subsidiary he claims the interests from October 9, 1979, the date when the State was summoned and from which date interests were summoned. The interest is to be paid over the, by you advised, reasonable and justified salvage reward. To simplify and to speed up this procedure, Theunisse proposes to answer first the principle question, about the salvage reward and the costs made, not included in the salvage payment. After an advice is reached about this part, parties can discuss about the costs as mentioned under IV, A to E. This is practical because a part of these costs will depend on the amount which will you will advise for. Theunisse has extensive picture reportage about the salvage. Theunisse thinks it necessary that a verbal handling shall be held. He will provide than for this picture reportage. Theunisse thinks also about the above-mentioned matters, to provide more information if needed, also about the facts and circumstances, which you will find important for your binding advice about the salvage reward for Theunisse.

IV. CONCLUSION:

Based on the above mentioned Theunisse concludes that his served Claim ad f. 80,000- ex vat. is reasonable and justified and that he is entitled to this sum. Theunisse is adding to his claim the mentioned costs and interest parts. Theunisse requests to bring the costs of this procedure to the States account. Tilburg, October 9, 1980. Counselor, Mr E. Fleskens

12)**Pels Rijcken & Droogleever Fortuijn, States lawyer**

MEMORY OF ANSWER, Case: THE STATE OF THE NETHERLANDS, seated at The Hague, Defender, Counselor: Mr. S.E. Gratama

Versus: SALVAGE AND TOWING COMPANY THEUNISSE, at Dintelsas, Municipal Dinteloord, Demander, and Counselor: Mr. E. C. P. G. M. Fleskens

1. On September 19, 1979, is the MV. Magdalena grounded on the Aardappelbult, a sandbank in a short distance west from the Westhoofd from Goeree. The Crew abandoned the ship. On September 21, 1979, is Smit-Tak arrived at the position, but refused salvage because the costs would be higher than the saved value. (See statement Mr. Pieters, Prod. 4 Memory of demand).

2. On September 23, 1979, the Police boat RP-9 sailed to the wreck. The weather was good, smooth sea and little wind. The Skipper from the RP-9 had contacted with Theunisse and informed him about the situation. After receiving various information, Theunisse agreed to come to the wreck with his salvage ship Furie-2.

3. Crew members from RP-9 found a pump onboard Magdalena and put this at work. After that, the RP-9 had pulled the Magdalena from the sandbank. Because the pump stopped, probably blocked, the Magdalena got more list.

4. Meanwhile, Theunisse arrived and started pumping on the Magdalena, which made the list less. The State produces hereby the first report from Theunisse dated September 26, 1979.

5. The Magdalena is saved by RP-9 and Theunisse. Theunisse was pumping with the assistance of Orca and the RP-9 was towing the combination to Stellendam.

6. It appears to the State that in order to find out what payment Theunisse must receive, first has to be established what total salvage reward is appropriate, and after that, which part of the result is to thank to Theunisse, and after that, what reward he has to receive for this.

7. Regarding the salvage itself, one can say that Theunisse and the other people involved were in no serious danger, thanks to the fine weather. When Theunisse made fast on the Magdalena the situation was not as such that immediate danger was present.

The report from Theunisse is also not saying anything about that.

8. The duration of the salvage was from 13.00 on September 23, 1979 until 15.00 on September 24, 1979. After that, the ship was moored and so many means of help were available, like pumps from the Fire Fighting Squad, that danger was no longer present.

9. Regarding the value of the Magdalena, the State remarks as follows: When the ship was towed in, there were leaks. To see how far the leaks could be repaired was impossible, the chine's were full of sand. In the harbor at Stellendam, the matter is discussed and Theunisse was not optimistic about it. Because the keeping from a damaged and leaking ship is except very risky, also very costly, and immediate sale was necessary. After mooring at Willemstad, the Police had invited the Ships-Service with the request to make a taxation and valuation report from the ship. The same day, Mr. Rijpkema, after his inspection of the ship, came to the conclusion that the costs for a prolonged keeping of the ship would exceed the value of the ship and that the ship was ready for wrecking. After this report was delivered to the Officer of justice, Mr. Pieters, he instructed the Police to sell the ship. The ship is than sold for f. 14,000- to the highest bidder of two, Heuvelman Steel.

Hereby the State produces the report of taxation and valuation from Rijpkema, which concludes to a value of f. 15,000-, with the explicit remark about the condition of the ship and the short term in which the decisions had to be made. (Prod. 2). Memorable is also that Heuvelman had sold the ship for f. 28,000- to Van der Marel, a wrecker at Zierikzee, who in fact wrecked the ship. In the opinion of the State, this sale reflects the real value of the ship. Also is memorable that a firm like Heuvelman is more able to make a good price for a ship than the State, who has no connections in that world. After all, the State has asked Mr. Dee from Dee Supervision, to receive a valuation from an independent expert. He gave is opinion about the value as f. 39,500- delivered at the scrap yard, the costs to get it there as f. 10,000-, with as result a value at Willemstad of f. 30,000-. The State produces hereby this taxation and an additional letter. (Prod. 3a and 3b). Grounded on this last report, the State says that the value of the ship is at most f. 30,000-. This is in line with the price that Heuvelman did receive. Theunisse did stop some leaks at Willemstad, but the ship was still leaking.

10. Theunisse did refer to an apparent offer he got for the deck gear, etc of f. 55,000- and also one on the engine-room of f. 30,000-. These offers cannot be regarded as realistic. V/d Marel approached those bidders later, and then they were no longer interested in these parts of the ship.

11. The State announces also that, if the ship had sunk near the "Aardappelbult", this would not have had caused the necessity for the State to have the wreck removed.

12. It is the States opinion that considering the favorable weather conditions, considering the fact that the salvage is carried out, not only by Theunisse alone,

but by the Furie-2 and the RP-9 together, and considering the low value of the wreck, the reward for Theunisse cannot be higher than f. 10,000-. The State has offered this amount for final payment and with transfer of his possible rights on the owner of the Magdalena to the State.

13. The State denies the claim, top of page 9 from the Memory of Demand, which says that his expenses should be paid back by the State. Agreed is, that you would decide, which and how much costs should reasonably be paid to Theunisse. –See mutual letter-. If Theunisse says that he always was willing to discuss about the amount and correctness of his claim, he means only that he was willing to explain the basics of his claim. He was explicitly holding on to his idea about the value of the ship ad f. 180,000- to f. 200,000-. A substantial lowering of his claim was unthinkable for him. Under these circumstances, it was of course not possible to reach an agreement about the salvage reward.

14. The interest date can be set on October 9 1979. The State concludes that you will rule that the reward for Theunisse will be less than f. 15,000-. In addition, that there are no grounds for payment to him for other costs, and also to rule that Theunisse will pay the costs for this procedure. Counselor.

13)

Mrs Van den Heuvel & Fleskens, Lawyers & Procurers

PLEA-NOTES: Case: Theunisse/State of the Netherlands. Pleading before Prof. Mr. H. Schadee at Rotterdam. Date: 1-22-1981 at 10.00.

1. INTRODUCTION:

- a) On September 23, 1979, Theunisse sailed out on request from the Justice-Department for the salvage of the motor-ship Magdalena.
- b) After ending the salvage, Theunisse claimed a by all means reasonable, salvage reward, of f. 80,000-
- c) The State denied and continued denying: 1. Every liability to Theunisse. (No salvage order, No civil agreement, No wreck-removal). 2. The State is than denying the liability for such a high amount. (f. 14,000- was the highest maximum). 3. The State is denying the facts brought up by Theunisse.
- d) Although Theunisse himself, as also his counselor, tried many times to reach an agreement, or at least some progress, and to start a discussion about the contents of his claim, the State was not moving an inch until August 18 1980, on the points under sub c. 1 to 3. On the contrary, a payment could only been done under transfer from the rights from Theunisse and the subrogation of rights.

e) Because only the Third Party costs, made by Theunisse, were higher than f. 14,000-, this offer of f. 14,000- was not only unacceptable for Theunisse, but also in figures not feasible.

f) Like mentioned, the State was ever denying the facts. Although the State, in an early stage of this case, possessed the internal reports and statements of the State-Police in the matter, she refused explicitly and in writing, to serve Theunisse with these documents. This caused the necessity for Theunisse to gather himself all the needed information, like with the preliminary hearings. Even during the gathering of information by Theunisse, the State tried everything in her power to prevent Theunisse from doing so.

g) When Theunisse after all succeeded, by means of his civil rights, in this gathering of information "and to make this information stick". The State was serving him at last the asked information, but then, only those pieces that were less important for Theunisse. This kind of policy was continued by the State, until the Secretary himself was interfering. (Only one (1) day before the meeting with the Secretary, the report from Internal-Affairs was served to Theunisse, after asking for it since April 1980).

h) In case the State is denying the above-mentioned facts; Theunisse is offering to open up his complete dossier here and now.

i) It is the opinion of Theunisse, that almost all of his activities, from the ending of the salvage, are caused by the fact that the State was simply refusing every reasonable discussion, refused every request for information, and was frustrating his efforts to find information.

j) Because of the many requests from Theunisse himself, a large wave of publicity, and Political pressure (Questions from the Second Chamber), the Secretary decided to interfere himself in the case: With the result that he invited Theunisse, with his counselor for a meeting.

II. THE AGREEMENT FROM AUGUST 18, 1980:

a) Theunisse refers to the letter addressed to the Secretary with additional documents.

b) Before the meeting on August 18, 1980, Theunisse knew, by political means, that the Secretary would, (had to) interfere in the case, and that he had studied the dossier.

Although the Secretary already, in his answers to the "Chamber-Questions", had taken in a standpoint, equal to the above mentioned at sub. 1 c. 1 – 3, The

Secretary abandoned that standpoint immediately during the beginning of the meeting.

Based on his own findings, he concluded that the case had to be settled quickly.

c) The report from Theunisse counselor of the meeting is correct.

d) Theunisse demands therefore that in this procedure for a binding advice, the agreement of August 18, 1980 shall be the basis. The demands and statements of the State, who are in contradiction with the agreement, are to be withdrawn and will be kept out of this procedure.

e) The mutual letter, undersigned by both parties is not in contradiction to my report about the meeting with the Secretary, while a former concept-letter from the Sates-lawyer was indeed in contradiction. Because Theunisse's counselor made objections against this first concept, the mutual letter is altered in a non-contradiction letter.

(See copy letter, dated 09-12-80, Prod. 1).

III. COMMENT ON THE MEMORY OF ANSWER:

a) During the comment, the numbering of the State will be kept:

Ad 1: The State casually mentions a statement of Mr. Pieters during the preliminary hearings and the involvement of Smit-Tak in the matter. Theunisse is referring to:

1) His report of the salvage, enclosed with the report from Internal-Affairs, (Send to you separately), containing information about the grounding, salvage, transport, etc, conducted by Theunisse and now part of the report under Oath from Int. - Aff.

2) Also, Theunisse is referring to the content itself from the report of Int.-Aff.

Theunisse made contact with Mr. Boegheim from Smit-Tak, who has had the contacts with Mr. Pieters. He did found out as follows: Boegheim had heard that the ship was grounded and he contacted the Radio-Room at Dordrecht, Adjutant Venema. From him he heard that for salvage, Mr. Pieters, officer of justice at Amsterdam, had to give his consent. Smit-Tak tried in vain to make contact and received at the end, his private phone-number at Hilversum. At 08.00 on September 21, 1979, Boegheim had made contact with Mr. Pieters and he received the salvage order. In consult with Venema, they agree that they will tow the ship over sea to Ymuiden. On September 21, that same day, Smit-Tak directs two salvage-tugboats, Zeeleeuw and Dolfijn, with onboard members of the State-Police, from Maassluis to the Magdalena. They arrive in the night of September 21-22, 1979. However, due to too much draught, they almost went aground themselves. They return to Maassluis with the intention to sail again with other

equipment. They have plenty. Before doing so, Smit-Tak again made contact Mr. Pieters and reports about their findings. Also, they tell Pieters that a, "No Cure-No Pay" basis is not attractive to them and that they are willing to do the job based on costs and time spends, estimated around f. 300,000-. The officer of justice had a slight problem with this figure, but meanwhile, the discussion was overtaken by the facts: Theunisse was hired by other means and another official, and did his work. Because of this, Kamp could put in his statement, that he knew about a salvage-order, and that he not had heard that this order was withdrawn. In addition, that he was assuming that Pieters still wished that the ship was going to be saved. That Pieters had problems about the price (from Smit-Tak) was not known by Kamp. (See also statement Roth). Because of the canceling of the salvage-order, Smit-Tak offered an invoice to Pieters, (f. 12,000-), for the trip in vain to the Magdalena, with two tugboats. Pieters refused to pay this invoice because he had not ordered to take a look on the ship and report, but he had ordered salvage. One has to take the instructions and statements from Pieters very literally. However, literally, his statements are correct.

Besides the actions from the State, also the owner of Mi-Amigo was busy. The owner asked Muller at Terneuzen to save his ship/radio station: Estimated costs from Muller: f.150, 000- Because Muller had to tow a transport to Sweden anyway, they planned to combine the two jobs. When they arrived at the Magdalena, it was Low Tide, so nothing could be done, and they left for a while. When they arrived back, the Magdalena was crowded with Police...Muller sailed to Sweden. In addition, Dijkhuizen at Flushing received a salvage-order from the owner. Her seagoing tug Temi-4 sailed to the Magdalena. Police was all over the place (ship). Temi-4 went back to Flushing. Dijkhuizen served the owner with an invoice of f. 10,000-, which invoice played also a roll during the time, even after the ship was sold by the State.

Officer of Justice Pieters knew that the costs for salvage would be high. He is claiming that Smit-Tak had told him that the costs would exceed the value. Smit-Tak did not confirm that. It is also not assumable that Smit-Tak would say such a thing. If Smit-Tak receives a salvage order from Justice, she will send out their entire fleet if necessary!

However, Pieters statement implicates another aspect: Pieters denies that he had agreed with the decision from Kamp to order salvage. Clear is, that during this conversation Pieters could have had Kamp instructed to tell Theunisse to return to his station, without any financial consequences for the State. Although Kamp and the other present Police members have heard clearly that Pieters indeed was

agreed, one can still say that Pieters instructions were not clear and because of that, Kamp also could have had told Theunisse to turn back. Therefore Pieters himself had created a situation in which he (according to his own statement), let a private Company doing work, on a No Cure-No Pay basis, from which he knew that the costs would be higher then the value of the ship. By this single fact, Pieters was acting unlawfully. What Kamp was doing, we know by now! Also from this point of view, it was reasonable that the Secretary explicitly was abandoning the sales-price as a basis for a salvage reward for Theunisse. Ad 2: For weather and sea conditions, see information from North-Sea-Control, and the report from Theunisse dated 09-26-1979.

Ad 3: Before the RP-9 pulled off the Magdalena from the sandbank, the ship was there sitting for several days on a fairly flat bottom and with around 300 Tons of water in it. Before arrival of Theunisse, The Police had found a pump and had put it to work. This was a 2" pump, very small. (See pictures). A pump like this has a debit of 15 Tons an hour with a suction-height of 3 meters. This pump had little or no effect. It pumped out; at most, the water that came in true the leaks, in the time the ship was standing straight up on the bottom, but would never have been sufficient to pump against the much bigger leaks, the time that the ship was pulled off, plus the amount that already was in the ship. The pump broke down after a short while, not blocked, but with a busted pump casing, due to too high revs. When the ship was pulled off by the Police and started to capsize, the leaking got worse and also the list. This because a few air vents on deck went under water, and because one of the large tanks in the hold broke loose. (See also the preliminary hearings, the witnesses Van den Berg and P. Kamp, who were at that moment, the only people onboard Magdalena: "A vibration moved thru the ship and the list got worse fast").

Ad 4: As noted!

Ad 5: In the situation as created by the Police (Pulling off the ship), no other options were available. It was not possible to ground the ship again with this list, also there was no more time left for that. The RP-9 was towing and steering the combination. Furie-2 was giving thrust power, at 50%, because with more power, The RP-9 was not able to keep his course. Theunisse denies that this was salvage with "combined forces"

The situation, as it was when Theunisse arrived, and were the State now is referring to, was the actual situation, caused by the Police, and could not be changed. This situation was critical. There was no time for any consulting, let alone to discuss if this was a combined job. For all, (honest!), involved people it was

clear, that the ship had been sunk, if Theunisse had not arrived just in time and had not intervened. Immediately after the acute danger was diminished and there was time for it, Kamp transferred the command of the operation to Theunisse. For all, (honest!), involved people it was clear, that pulling off the ship, was insane, a very stupid act indeed, that caused acute danger for people and equipment and the Magdalena. It is important to state here that the contracts-party from Theunisse, the State, by handling in her own irresponsible way, had increased the danger for the salver and made the salvage more difficult and risky. We are referring here to the Brussels Treaty 1910 and to the Law of Commerce, Art. 545 and especially to Art. 552 and 565. To be complete, Theunisse is referring again to the agreement from August 18 1980. From the direction from the States-lawyer, two points were brought in during this meeting:

A. Sharing of the salvage reward. (The State refers to that under sub. 6, Memory of answer).

B. Advising to payment by Theunisse, for the costs made by the State, incase it would show that Theunisse and not the State had kept to the wrong standpoints during this case. Because of those two points, brought in by the Sate-Lawyer, there was a short but very intense discussion between the counselors, during the meeting.

Conclusion from the Secretary himself:

Ad A: There will be no sharing of the salvage reward. The expert has to establish a reasonable and justified reward for Theunisse, not for the Police! Incase the Police had made his job more difficult and/or dangerous, than this has to be also taken into consideration. The State is not demanding a salvage reward or a share of the reward.

(See report about the meeting on August 18, 1980).

Ad B: Incase the Lloyds Open Form offers the possibility to get paid also for the Legal costs, then the expert will establish a reasonable and justified amount for that, not limited to this binding advise procedure, but beginning from of the end of the salvage.

A mirror-construction in favor of the State, (like proposed for by the Sate-Lawyer), he, the Secretary, denied explicitly. On the Contrary, he added that the costs of this binding-advise procedure were in any case for the Sates account.

Ad 6: See above.

Ad 7: Regarding the salvage facts, Theunisse refers to the reports, picture-reportage, Police-reports, Police-statements, report from Int.-Aff, and the report from North-Sea-Control. It appears to Theunisse that enough material-facts were

produced to reconstruct the salvage and to calculate the risk factors. Theunisse marks here that the danger for Furie-2 was great during the time he had to come alongside of the Magdalena. There was a lot of water in the ship. The ship was capsizing, while there were large tanks in the hold, from which, one already had broken loose. The Police members wished to abandon the ship. If the tanks had come loose altogether, the ship had capsized immediately. The result of that for Furie-2 and crew is obvious. Keep in mind the large differences in size between the ships involved.

Ad 8: The salvage duration is from the moment when the salvage order was received and agreed up on, September 23, 1979, 12.00, until September 25, 1979, 15.00, being the time when Theunisse was ordered by Kamp, to stop his work and to leave the ship.

Coincidentally the moment that Kamp told Theunisse to stop his work, the job was done completely, except for clearing up the salvage equipment. After that, Theunisse took precautionary measures to leave the ship in safety, like checking on the moorings etc, and sailed back to his station on September 25 at 18.00. To be complete, Theunisse marks here that in his salvage-claim is not contained, the night from September 24 to 25 1979, for which period Theunisse had installed two submersible pumps in the Magdalena. For limiting or ending the danger of sinking of the ship, are no other measures taken or considered, is no other equipment installed, or brought onboard, or brought even in the vicinity of the ship, then the equipment of the salver.

Ad 8: Therefore, this view about alternative help at Willemstad is not correct.

Ad 9: About the value of the ship. Contrary the agreement on August 18, 1980, again is the State grounding her views on the sales-price, the report from Rijpkema and the condition of the ship, this specific ship. In the report from Int.-Aff. is contained, among other, the statements from, Theunisse, Ooms, Boer, Kerkhove Sr., Kerkhove Jr., and a number of other involved people. These statements speak more extendedly about the value of the ship. Theunisse refers to these statements. Based on these documents, it is obvious that the Secretary wished no longer to speak (other than Mr. Gratama), about the works of Mr. Rijpkema. He also was taking distance from the sales-price of f. 14,000-.

The statement of Rijpkema before Int.-Aff shows, that he had not dare, at not one single point, to give comment on the taxation report from Berex BV. He tried to worm himself out of his doings, "findings", "taxations" and "valuations", but states after that, that he cannot deny that he was influenced by his knowledge of the sales price and that he was very disappointed when this sales-price turned out that

low. But, then again, they were friends after all, because he had a free dock space for his pleasure-boat, so sorry, not free, for a bottle of Gin!

Theunisse is simply referring to the introduction of the report of Internal Affairs, where both investigators are giving a resume about their conclusions. The Attorney General Mr. van Leeuwen writes, based on the content of the report, to the Procurer General at s-Hertogenbosch, that it is clear for him, that Kamp and Rijpkema had given a completely false picture about the condition of the ship. The Attorney General is fully taking over the conclusions of the investigators and concludes even, about the conduct of Rijpkema, that if he will not have to face criminal charges, he at least will be removed out of the Service. It is wrong and not understandable that the Lawyer of State in this procedure is referring to the works of such a Civil Servant, while he knows that this approach was not agreed up on between parties, and while he knows that the documents where he is referring to, are of such a low quality that they will never be allowed for as proof. It is however not a desire of Theunisse or his intention to seek verdicts against the wrong doings of this civil servants of the Dutch State. He just only wishes to be paid for his work. The responsibility for the behavior of her servants, and the possible repercussions, rests entirely on the Dutch Government. Only when this kind of behavior is threatening or damaging his interests, he will pay attention to it, and he will act accordingly. This disgraceful behavior of Kamp and Rijpkema was the main reason that the Secretary wished no longer to hold on to these documents and statements, and wished that the binding advisor would base his task on an imaginary ship, comparable to the Magdalena, in a case of a willing buyer and a willing seller. (Also according L.O.F.)

The State is also again referring to the "sales-agreement" between Heuvelman and V/d Marel. The first time she did this was in February 14, 1980, during a meeting at The Hague. Theunisse can produce proof that this "sale" was constructed and non-existing. Heuvelman was, and remained owner of the ship. Heuvelman closed Insurance on the ship for the transport to Zierikzee. Heuvelman paid a security bond on a bank, because of the invoice from Dijkhuizen-Flushing, to avoid that he had to stop the demolishing. In addition, Heuvelman instructed Taxation-Bureau De Beer at Rotterdam, after the so-called "sale", to inspect the ship. Heuvelman explicitly instructed De Beer to establish the total weight of the ship. This figures he needed to know, to be sure that the total weight of the scrap-metals, delivered back to him by V/d Marel, would be equal to the ships weight! The counselor from Theunisse had contact by telephone with Mm. V/d Marel. From her statements, counselor could easily establish that they had only received a payment for

wrecking of the ship for owner Heuvelman. For the demolishing of the ship, they received from Heuvelman f. 68,000-. This sum included the so-called “sales-price” of f. 28,000-, which sum was only a “security bond”; they had to pay before demolishing to Heuvelman, owner of the ship, and was now paid back to them. The fee for them was therefore f. 40,000-, exclusive the money they received for the many various non-scrap items, for which they were agreed with Heuvelman to have them sold by them selves, as a bonus. Counselor from Theunisse did immediately report to the States lawyer, and also to the investigators from Int.-Aff; of his talk with Mm. V/d Marel, and that this “sale” was not a trustworthy and not a real sale. By then, it was also known by the State that this construction indeed had taken place. In spite of all this, now in this procedure, the State is again referring to this fake sale!

Ad 10: For the correctness and the trustworthiness about the offers from Kerkhove and Bogenda, Theunisse is again referring to the report of Int.-Aff. Also is in this report sufficiently explained why these Firms did not continue there offers, later on, to V/d Marel.

Ad 11: Theunisse rejects this view from the State. Grounded on the “Aardappelbult”, the ship could not sink. This sandbank is shallow and dries partly at Low Tide. With gale-force winds from the west, there is a heavy swell on this bank. Approaching these grounds is very dangerous then. (See Mariners-Pilot, Dutch Coast). In heavy weather from the westerly quadrant, the ship would have had moved towards the new Brouwersdam, close behind the bank. When the ship had capsized and sunk after the RP-9 had pulled the ship afloat, the ship was sunk in the gully “Kous”, and would have had blocked this gully, which is the only entrance to the harbor at the new Brouwersdam. Also are there the water inlets for the Grevelingen Lake. By all means, the ship has had to be saved or removed from that position. If Mr. Pieters is referring to his statement that the ship was fine there, he is referring to a totally different matter: If the ship had stayed there, without being actual salvaged as indeed it was, then it would have become under the responsibility and jurisdiction of the Department of Water and Traffic, Who then had taken care of the, expensive, removal of the ship, out of their budget and not out of the Justice budget.

Ad 12: Again, Theunisse is protesting against the qualification of the Magdalena as a “wreck”. The terminology “Wreck” is taken from the report from the Ships-Service, from Mr. Rijpkema, which report later on is qualified in the Report from Int.-Aff as a “Web of fairytales”.

Ad 13: See Ad B and Ad 9. Again, Theunisse is offering to put the entire dossier on the table, to prove that the State is wrong at her sub 13, second paragraph.

The proof produced by the State is very poor, based on untrustworthy evidence and in no way comparable with the proof and evidence produced by Theunisse. The State did not add any new element to the discussion, therefore Theunisse concludes: **TO PERSIST!** Tilburg, January 22, 1981. Mr E. Fleskens.

14)

D. Touw Expertise en Ingenieursbureau BV.

To the Honorable Sir, Mr. H. Schadee, ROTTERDAM

Your ref.: Our ref.: Ho/EvdV Rotterdam, April 23, 1981 T. 16522

Subject: taxation motor ship MAGDALENA

Honorable Sir,

With reference to the letters, addressed to undersigned, Feb. 16, Feb 19, Feb. 25 and March 5 1981, I can inform you as follows: That after studying the dossier and seen the Lloyd's Register of Shipping, I have gathered the following information:

Particulars:

<u>Length over all</u>	<u>58.37 meter.</u>
<u>Length between lead lines</u>	<u>54.26 meter.</u>
<u>Beam</u>	<u>8.54 meter.</u>
<u>Depth</u>	<u>3.57 meters.</u>
<u>Build by</u>	<u>CLELAND'S Ltd. WALLS END ON-TYNE</u>
<u>Year</u>	<u>1955</u>
<u>Lloyd's Identity nr</u>	<u>5067259</u>
<u>Tonnage Bruto</u>	<u>655 ton Netto 329 ton.</u>
<u>Cargo capacity</u>	<u>785 ton.</u>
<u>Last Owner</u>	<u>Unknown.</u>
<u>Class at building:</u>	<u>Lloyd's Register~ 100 A 1.</u>
<u>Land of registration:</u>	<u>Honduras.</u>

I mark here, that the ship was build as CENTRICITY for F. T. Everard & Sons at London. Because the ship was demolished and I could therefore not inspect it, I assume that the layout and the equipment of the ship were still equal to the documents handed over to me. In addition, I found in the documents that the ship on September 25 1979 was in a bad state and that no certificates were valid any more. My opinion is that only after very high expenses the ship could have had made fit for sea again and in fact this ship was only to be used for a completely different inland water purpose or for scrapping. In addition, it is my opinion that on

very short notice after September 25, 1979, 15.00, many interested parties could have had been found for making an offer on the ship. In my opinion and considering the above-mentioned information was the value of the MAGDALENA at September 25, 1979, 15.00 hours, and f. 65,000-. Saying: SIXTY-FIVE THOUSAND DUTCH GUILDERS. Enclosed, I return to you the picture-reportage, and I sent also my declaration. Yours truly, ING. H.J. HOPPZAK

15)

MRS VAN DEN HEUVEL & FLESKENS

To: Prof. Mr. Schadee.

OVERSIGHT COSTS AND PROFIT LOSS FROM THEUNISSE:

Additional to the letter to Prof. Schadee September 29, 1981.

Case: Magdalena.

GENERAL: There are two ways to calculate:

- 1) A counting of the hours spend and a counting of the expenses, (pictures, mailing, traveling, telephone, etc.
- 2) Granting to Theunisse of the money Theunisse would have had made with his business in the case he could have had run his Company if the case Magdalena was handled in a normal manner. Theunisse chooses for alternative 2) for the following reasons: a) The calculation is much simpler. b) This alternative gives more credit to the practical problems Theunisse was confronted with. To explain, the following:

In 1977 the idea was borne to build a completely new salvage ship, "Manus" of own design. In February 1978 after a long period of preparations, meetings with Ships Designer Expertise bureau De Beijer at Rotterdam, with accountants, financial advisors and the Bank; was agreed and decided for financing and to start building. Still in the same month, Theunisse started building, which should be finished in May 1, 1980. At first Theunisse was in advance of the building period. September 23, 1979, the Manus was completed for 2/3 part. Meanwhile, Theunisse had made a introduction brochure about his new ship with various details, capacities and possibilities mentioned in it, and did send these brochures to the various relations in the business, like the Department of Water, Insurance Company's and such, and with the announcement that the ship would be available May 1, 1980 at the latest. Agreed was on a strict finance plan, coming down to, that the finance was done with the revenues of the work done for customers and a start-capital of f. 242,000- from which f. 200,000- was financed by bank.

On September 23, 1979, problems occur around the Magdalena story. Result was that the money invested in the salvage from the Magdalena, f. 20,000-, had to be pre-financed by Theunisse, by means of bank-money. In December 1979, Theunisse had to pay to the bank f. 26,000- interests and loan. If the State had paid him in a normal manner before the end of 1979, Theunisse would not have had to finance the salvage costs and he had been able to pay his debts on the bank at the end of 1979. Now, Theunisse had to pre-finance f. 46,000-. Because of the problems with the Magdalena, the building of Manus was delayed, due to the great amount of time it took in the Magdalena case, going after his money. This ship was finished August 1980, 90 days too late. From May 1980, Theunisse received the following project offers, he had to reject because the ship, needed for these projects, was not yet finished

a) A sunken pile driver from the Company De Bruin, at the Gent-Terneuzen-Channel. This project was offered by Muller-Terneuzen, and agreed up on with them for f. 5,000- per day and part of day. The project is then offered to, and carried out by Van den Akker at Flushing. It took them 6 days to finish. Loss for Theunisse at least f. 30,000-.

b) Sport fishing boat NN, sunk in harbor of Stellendam. Invited for by the Insurance-Representative, Berex at Rotterdam, as closest salver. Job made by Van den Ende at Dordrecht for f. 42,000-.

c. Volker-Stevin (DOS-Bouw) called for immediate salvage of a pay loader, under water at the Eastern-Scheld works. Done by Van der Marel for f. 15,000-.

d. One week later, exactly the same event happened. Also done by Van der Marel, f. 15.000-.

e. Unloading and reloading 1000 Tons of gravel from a barge, from Dekker-Papendrecht, grounded on the Hollandsdiep, f.11- per Ton = f. 11,000-.

f. Port Captain Verhey from the Water-Division at Hellevoetsluis called for a sunken pontoon in front of the Lock at Stellendam. Theunisse was the closest salver. Could not do it, ship not ready yet. Loss f. 44,200-.

Total earnings lost in this period f. 157,200-.

If Theunisse had received these payments in the period May to August 1980, he had not to have paid interest over this amount. This interest is 14.5 %. Interest total is f. 25,676-; so total missing is f. 182,876-.

II. Of course, Theunisse would have had his variable costs to carry out these works. We can easily make a fixed amount for this, but contrary to it is that now Theunisse had other expenses in the Magdalena case, which he would not have

had if the missed jobs had could be carried out in a normal way, I mean things like mailing, telephone, traveling, etc.

III. Theunisse is estimating the loss of time, because of the Magdalena case on 650 hours. My own declaration shows that I have spend 420 hours on this case. I am convinced that Theunisse did spend much more time on it, like to the questioning from Internal-Affairs, meetings at The Hague, the Districts Attorney, Experts, other people involved, and the Press. Although I did my part of the investigation, Theunisse did spend surely more time in it. He is estimating it on 650 hours, being around 70 workdays. This is very close to the delay in the finishing of Manus, 90 days, in which are 65 workdays. Incase we follow this alternative; we have to establish a reasonable tariff in which we must include the following elements:

1. The fixed costs from his Company.

- Wages personnel
- Costs of financing
- Bank money
- Profit from own money
- Insurances
- Taxes
- Write-off and new investments

2. Revenues Enterpriser.

For an over-all calculation we must use an hourly tariff of a little over f. 200-. If the hours were paid for, at the time they were spend, there would have been a year's interest on the hourly payments. Assuming f. 200- an hour, times 650 worked hours gives a total of f. 130,000-, to be added with the interest over the average time:

Calculation based on time: 650 lost hours=	f. 130.000-.
Average time for interest, 1-year	f. 32.190-

Total	f. 162.190-

To add to with the costs in the case for, pictures, mailing, traveling, telephone, etc.

3. Some notes to the calculations: Not considered is the fact, that financing is done in the way that interest is paid on interest. Not considered is the fact of the gap in financing that occurred when there came no payment after the carried out work. The alternatives A and B are reaching about the same figures. Alternative A seems the most realistic because in this, the positive enterprisers risk is honored. The

figures are close together. If we correct alternative A for the not made variable costs, the end figure will be the same as in B.

We have two possibilities. Theunisse is in favor for alternative A, because this is simpler.

In case A is chosen, Theunisse offers more information if necessary to prove the correctness, also about the relation between the two events: The building of Manus, and the salvage of the Magdalena. If B is chosen, and it is not possible to receive an agreement, based on this information, then we offer to make a specific time calculation and a calculation based on the parts fixed costs/ variable costs/enterprisers revenues. It seems obvious to us to come to an agreement on a certain fixed amount. This saves new costs, new investigations and time, which are on their turn, again causing damage. For practical reasons Theunisse is proposing to come to an agreement based on the above mentioned facts, to pay him a reasonable and justified amount for costs damage and interests. Tilburg, September 30, 1981. Counselor, Mr. E. Fleskens,

16)

Pels Rijcken & Droogleever Fortuijn, States lawyer

To The honorable Sir, Prof. H. Schadee, ROTTERDAM

Date: October 13, 1981 Our ref.: Gr/ek. Your ref.: Case: State/Theunisse
Honorable Sir,

Regarding the declaration of Mr. Fleskens and the costs estimation of Theunisse, the State has the following remarks:

a. First the declaration of Mr. Fleskens. This declaration seems outrageous high to us. Mr. Fleskens did a lot of unnecessary work. In with a normal efficiency carried out procedure, he should have, after the preliminary hearings, had started at once a short-term procedure or a binding advice procedure. Instead, Mr. Fleskens and Theunisse started a Press-Campaign against the Department of Justice in general and against the State-Police and Adjutant Kamp in particular, filed complaints, was approaching the Parliament, and placed continuously phone calls to the Department. This caused on turn many meetings on the Department were Mr. Fleskens had to be present, and also an enormous load of not efficient correspondence. Repeatedly we have told Theunisse, because it was clear from the beginning that we could not agree on the salvage reward, to go to Court. Theunisse repeatedly rejected that and told that he would seek his right with other means. This has lead to the above-mentioned useless acts. At last, Theunisse agreed with the proposal of the Secretary to ask you to settle the matter. The State sees no grounds to take

on her account all these useless acts, which would have been Unnecessary, incase of a normal carried out procedure. Also is the total of the declaration not justified, considering the sum of the summons (salvage fee f. 80,000-) and the achieved results. In the opinion of the State, under the circumstances, a normal procedure would have had cost no more than f. 10,000- to f. 12,000-. With the use of the, normal practical, points-system, it would have been 6 points; (hearings 2 points, plea's 2 points, expert's handling (comparison) 1 point, and a Memory 1 point). Because this is a class IV case, in which the points are f. 1,100- per point, the costs to liquidate are f. 6,600-. Nevertheless is the State willing, in view of the promise done within your assignment, to pay a little more for the legal costs of Theunisse. While establishing the amount of this, one has to take into account also that you did not fully grant the demands from Theunisse (f. 80,000-). For the amount the State will have to pay, the State refers to your view in this.

b. The costs claimed by Theunisse himself. The State is referring to the letter from September 12. This case is about a summons for collecting an amount of money. The Dutch Law gives no grounds for the time spend by the party to collect his money. The Law is explicit in this, according Art. 1286, BW that the damage done by the debtor in a case of delayed payment can only be the interests. The legal interests are already paid to Theunisse together with the salvage reward, which only leaves to pay his legal expenses and nothing else. On top of that, the State says the following: The performance of Theunisse and his time spend was for this procedure totally irrelevant. He could have left the collecting of his money to his lawyer. The facts of this procedure were simple of nature; they needed not much time to convey them to his lawyer. Especially the time spend by Theunisse for complaining, influencing the Parliament, Press releases and investigations was useless and not necessary, now for collecting his money, a normal Legal Procedure was possible and to his convenience, and therefore not to expect. Therefore every connection is missing between his time spends and any act of the State. Therefore, the State concludes that the demands from Theunisse have to be rejected, except for the costs of Legal advise, to prepare him for this binding advises procedure, and wherefore you have to establish a reasonable payment. To close with, the State remarks here that for any payment for "immaterial damage" in a case like this, the Dutch Law gives no grounds. Copy to Mr. Fleskens. Yours truly, S. E. Gratama.

17)

Pels Rijcken & Droogleever Fortuijn, States lawyer

To: Mr. Fleskens. Date: December 28, 1981, Case: State / Theunisse

Dear Colleague,

Today I had the opportunity to discuss with the Secretary the proposal from Mr. Theunisse, containing that the State will pay f. 40,000- for his legal expenses and that he should get the opportunity to discuss his personal damage with the Department of Justice, under condition of not to go to Court for this damage, independent of the outcome of this discussion. The Secretary is rejecting this proposal. The Secretary will do once more an effort to end the case now. He offers to pay f. 40,000- for all costs and damage imaginary, as for final payment. In addition, under the condition, that he stops every action via the Press or Members of Parliament. The Secretary is offering this only to close this case and is accepting hereby the figure that the arbiter has proposed for a settlement: f. 40,000-. Rejects Mr. Theunisse this proposal, then he cannot call up on it as recognition of the State, that the State owns him this money. In that case, Prof. Schadee shall have to finish the procedure with a binding advice about the legal costs. This proposal from the Secretary can be accepted until January 11, 1982. After then it is expired. Yours truly, E. Droogleever Fortuijn

18)

MRS VAN DEN HEUVEL & FLESKENS

MEMORY AFTER COMPARISON AND PRELIMINARY BINDING ADVISE

Case: SALVAGE AND TOWING COMPANY THEUNISSE, seated and living at Dintelsas, Municipal Dinteloord; Demander; Counselor: Mr. E. Fleskens;

Versus: THE STATE OF THE NETHERLANDS, seated at The Hague;

Defender; Counselor: Mr. E. Droogleever Fortuijn;

I. INTRODUCTION:

On May 27, 1981, you as binding advisor produced a preliminary advice in the binding advice procedure. In this preliminary advice, you advised about the salvage reward for Theunisse, after which remained open the questions about the costs of this binding advice procedure and about the costs from Theunisse for his efforts and costs for collecting his reward. Theunisse will now memorize a number of relevant factors for the follow up in the case:

1. Page 8. Preliminary advice May 27, 1981:

“According Art. 552, Law of Commerce, a salvage reward is due for every case in which assistance is given, with good result, to a ship in need of assistance.” This is

correct, because the single fact of giving assistance is giving a right to a reward. Art. 564, Law of Commerce, state that the Owner of the ship is the party that will pay the salvage reward. The State was in case not the owner, while the State has denied knowing the owner or the Insurance Company of the ship. From the beginning, Theunisse has stated that he had closed a civil agreement with the State and he therefore had to see the State as his contracts party and debtor. The documents in the case are confirming the views of Theunisse, that indeed a civil agreement was closed. The State is for this the contracts party and therefore the debtor. Incase Theunisse would not have had a contracts party and therefore just had done the salvage in fact, he would have had to turn to the owner of the ship, which is until now officially unknown. Now he could base his claim on the civil agreement in which the State was acting as contracts party and he could point to the State as his debtor. Therefore, it was of utmost importance to Theunisse, that indeed a civil agreement was closed, when Theunisse after a while noticed that the State was denying her obligations to him, saying that there was never an agreement for salvage closed.

2. At page 8 from the binding advice, dated May 27, '81 you speak about "The by the State to pay salvage reward for Theunisse". From this, I conclude that you agree with Theunisse that the State in this case is to see as the contracts party and debtor from Theunisse and not besides the owner of the ship, reason why you brought the salvage reward to the account of the State.

3. The documents show, and obviously you have also this viewpoint that on a certain moment Theunisse was ordered by the State to leave the ship. Also is established that the ship was sold by the State immediately after the salvage to a third party for a price far below the value, and with this sale, the State was violating all possible rules in the Law about Custody and Keeping of Goods. Theunisse comes back to this later. Also is established that the State was commencing this sale, knowing that there was a salvage claim on the ship. By this, the State was acting again against the Law, ref. Art. 117, SV but also she was acting unlawfully towards the salver (denying his right of retention and the sale of the ship on which a salvage claim rested) and also was the State acting careless in conducting her own rules by selling for such a low price. Incase the State would have had honored her own Rules and Laws, the ship would not have had been sold and none of the later problems would have occurred. Theunisse will return to this later.

4. Page 17, preliminary advice you wrote: "About the other points for which my advice was asked, I request party Theunisse now with the highest urgency to provide me with the information which I asked for in my letter on April 22 1981, and

also any other information he thinks appropriate". By referring to this letter, this letter became a part of the advice. At 5. of this letter you asked the counselor from Theunisse to give information about: "a. I request Mr. Fleskens to let me know already now, which amount for his fee, plus his expenses, he is planning to bill his client for. To exclude any chance of other new discussions about this, and only for that reason, I request Mr. Fleskens to have his declaration being approved by his Dean. b.

Also I request Mr. Fleskens to inform me about the costs and time spends, and the thereby caused financial damage, on the side of Theunisse, insofar connected with the legal assistance." You planned to establish these costs reasonably and justified, as soon as you had decided in favor of Theunisse about the question, if and how much the State had to pay to Theunisse. Because you have decided in favor of Theunisse, logically you asked for this information.

II. THE CONTINUATION OF THE PROCEDURE:

After you had spoken in the preliminary advice about the amount of the salvage reward for Theunisse, and about the obligation for the State to pay for it, there were two points left:

1. Costs for legal counseling, beginning after the salvage.
2. Financial consequences for Theunisse because the difficulties in collecting his money. Because of your requests, there was some other correspondence done in which you in the direction of the State were confirming, that you wished to have the information quickly, in spite of the fact that the State was denying that there was any ground for paying Theunisse for his costs. I have provided you with my declaration and with the estimation about the costs from Theunisse were after some more correspondence did follow and then the meeting at The Hague took place. During this meeting, a discussion developed about the following parts:
 - a) How far extends your assignment?
 - b) The amount of the costs for legal counseling.
 - c) The possibilities for Theunisse to bring the negative financial results to account of the State. These three elements I will handle in the given order below:

III. CONTENT OF THE ASSIGNMENT FROM PARTIES.

1. On August 18, 1980, the Secretary of Justice invited Theunisse and his counselor for a meeting about the dispute that was raised between Theunisse and the State. In this meeting an agreement was reached, which contained that parties would approach you with the request to give a binding advice about a reasonable

salvage fee for Theunisse. Also were settled other parts of the dispute, among them the sales price, which no longer was considered the real value of the ship, and the use of a "imaginary" ship in the same situation, while also was stated that the State did not require a verdict to bring the costs to the account from Theunisse, incase he would lose or partly lose the case. From this meeting, (were in fact only the Secretary and Theunisse did the talking) the counselor from Theunisse made a extensive report, which report, after have had it checked with client, he send on august 20 1980 to the Lawyer of State. He kept the report without any comment or protest.

2. Parties had now to turn to you. The counselor from Theunisse proposed to send his report from the meeting to the expert with the request: To bring out a binding advice and to take the report as a basis. This was not accepted by the States counselor, for which I refer to the following paragraph in his letter from August 25, 1980, to the counselor from Theunisse: "The logical sequence in a binding advice procedure is, that first the expert is asked, if he will accept this assignment. Therefore he needs a very brief explanation about the case, to let the expert know, about which questions is binding advice is asked for. This brief explanation serves no more or other purposes. If the binding advisor accepts the assignment, then he needs to know the standpoints of both parties. So, he will invite both parties to reveal these standpoints to him, which documents are named Memory of Demand and Memory of Answer."

Other than the wish of the counselor from Theunisse, the States counselor wished to only give you brief information and just ask you to accept the assignment after which the discussion could start. During the comparison, the States lawyer was pointing to the fact that the mutual letter, in which both parties addressed you, contained a limited assignment and therefore a number of points would be kept out of your assignment, and that the State would ask for a dismissal from your verdict if you did speak out about these points. You recognized this possibility during the meeting. Based on the above mentioned and especially referring to the quoted paragraph, I can now only conclude that I was deliberately and knowingly misled by the State, (Not for the first time!) They have persuaded me to undersign the mutual letter with the (untrue) argument that the letter was not more then an invitation to you to accept an assignment, and that I by Memory of Demand could bring before you everything that I would think useful. This is in line with the explicit wish from the Secretary to give you a wide as possible assignment. By now regarding this mutual letter as -the limited to the text assignment- with exclusion of

all other points of agreement, about which you could had speak out, the State is acting absolutely devious, vicious and unlawfully.

3. Because it looked as if only the conducting of the mutual letter could take weeks, the counselor from Theunisse agreed at last with the latest text from the mutual letter, and he based his Memory of Demand on the agreement from August 18, with the Secretary and about which the mutual letter from September 17, 1980, gave no clarity or insight. In the Memory of Answer, the State is taking standpoints and bringing demands on Theunisse, which were in contradiction to the agreement from August 18. For this reason, the counselor from Theunisse was very upset and wrote a letter about this to the Secretary, which letter was received by the Secretary, but until now never is answered. As a reaction the counselor from the State sends a copy-letter from the Department to him, to the counselor from Theunisse, this in relation with the report from 08-18-1980, which letter shows that the counselor of State was unrightfully trying to bring any verdict of costs to Theunisse's account, and also that the Department "didn't think it opportune" to fight on about the points that were recorded in the report from the counselor of Theunisse, not completely in line, with which the States counselor had understood during the meeting with the Secretary. Therefore, in fact, was this intern letter from the Department to the States counselor, a confirmation of the correctness of the report from Theunisse's counselor, in fact an instruction to the States counselor not to fight the correctness of the report, because they didn't think it opportune? This correspondence is even produced by the States counselor in the binding advice procedure!

4. From the above mentioned, it is clear that the mutual letter from parties to you, dated September 17, 1980, was nothing more that an invitation to you to accept an assignment, and certainly not could have had the pretension, or may have, or should be used for the intention, to set the boundaries of your assignment. On the contrary, parties wished to give you an assignment formulated as wide as possible and therefore to mention in the mutual letter only the strict necessary information.

5. Based on the above mentioned, I am convinced that your assignment is not bound to the content of the letter from September 17, 1980, but that your assignments extends to all that parties agreed up on before, (August 18, 1980), and reflected in the Memory of Demand.

IV. COSTS OF LEGAL ASSISTANCE.

1. Content: Among the costs, you had to advise about, are all costs for legal assistance included, counting from the end of the salvage. There cannot be any

misunderstanding about that, because also in the mutual letter (September 17, '80), this is mentioned.

2. You did ask the counselor from Theunisse to produce his declaration for fees, costs, and expenses. This declaration had to be checked first by the Dean, to prevent any new discussion. During the meeting you have qualified this declaration as "surely technical correct". The costs in this declaration are counted until June 1981, therefore has to be extended with the costs after this date. You find this addition enclosed in a second declaration. This addition means of course also an extension from the personal costs for Theunisse.

3. During the meeting you discussed, (following the state in this), that a part of the costs would not have had been necessary made, if in this case an other policy was followed, especially the possibility, if Theunisse after the salvage had the ship placed under custody, after he had lost his control and right of retention on the ship, by order of the Police to leave the ship.

4. At the Comparison, the counselor from Theunisse mentioned that he in that time did not decided to custody because of the special circumstances in this case. Among these circumstances was the fact that the State of The Netherlands was the contracts party for Theunisse, the most reliable and trustworthy party he could have wished for! Placing the ship under custody was therefore not necessary and useless, because Theunisse is allowed to see the State as a creditable debtor. The Law gives the salver special possibilities to secure is rights for payment of a salvage fee, for those cases were it is unclear who is the debtor for his salvage fee, in cases of difficulties about the identity, and or ownership of the ship. In this case, there was no doubt what so ever, about the identity of the debtor. At that time, Theunisse had no reason to be concerned about the payment of his salvage reward, and that his rights as salver would not be respected. To be absolutely clear: This case could only develop to this size and dept BECAUSE the State did not respect her own Laws and Rules and continued constantly to deny her own responsibilities for, and the consequences of, this behavior, and that if the State had indeed had respected the Law and Rules in this case, the costs would have had been limited to a absolute minimum. One cannot demand nor expect from Theunisse to place a ship under custody after salvage because he MUST expect, that he will need this custody to compensate for Unlawful and Untrustworthy behavior from the Government, his debtor in this case! When Theunisse and his counselor decide to follow a certain policy in this case, they did not need to take in account a careless, unlawfully and untrustworthy behavior of the State. One cannot

put against a civilian, the unlawfully acting of the Government, in a stupid case of collecting a sum of money for work done.

Theunisse has learned a few entirely new and sad experiences since, much to his regret!

Now after all, the State says that a payment for legal expenses to the amount of maximum f. 12,000- is sufficient, according the liquidated costs of the points-system. This is per definition something else then “the costs for legal counseling” in your assignment! You have to view the really made costs, not the costs made when another policy was followed. Your assignment includes the establishing of the Legal Costs, NOT the establishing of which policy could have been the best or most ideal in this case.

V. PERSONAL COSTS FROM THEUNISSE.

1. For judging if this factor is, or is not, included in your assignment, Theunisse is referring to all the above mentioned, regarding the assignment.

2. The State acted Unlawfully and Untrustworthy: Already during the salvage, during the sale by ignoring his right on retention, during and with the sale itself, during the conducting of the reports from the involved Policemen by falsifying those reports, under Oath! During the preliminary hearings, during and after the meeting with the Secretary. Because of that, Theunisse suffered much damage. Law sanctions damage caused by unlawfully acts. Therefore, Theunisse finds The Law on his side with grounds for his damage claim. Completely in line with this, you have asked Theunisse to specify this damage, in your preliminary advice as well as with separate letters. The Secretary wished to give you a wide assignment. Theunisse wished also a wide assignment. Not to see is therefore, why you cannot not speak out and advise about this damage. Dismissal of your binding advice is also possible if you are selling short on your assignment! Theunisse is strongly convinced that advising about his personal damage is indeed included in your assignment and is persisting completely to his estimation of this damage. Incase you will decide otherwise, Theunisse is keeping all his rights on this subject.

VI. CLOSING REMARKS.

1. During the handling of the case, in the binding advice procedure is asked for a specification of the legal costs. Now the suggestion arise that these costs were unnecessary. Apart from the in-correctness from this suggestion, this suggestion is based on a so-called wrong policy from the start on. This policy was known before

the binding advice procedure was started. The Secretary had decided to honor this policy by agreeing with Theunisse about his costs.

2. Theunisse cannot understand to be confronted with a request to specify these costs on one side, and to be confronted now with the suggestion that these costs were unnecessary on the other side.

3. The content of point 2. is of course valid also for the personal costs from Theunisse.

4. During the Comparison was suggested by you that this request for specifications only was done in an effort to move the State to make a "gesture". If you in the time you asked for the specifications, had also told that you did this in an effort to move the State to a gesture, Theunisse would have had saved himself the trouble and extra work, because he has experienced everything in this case from the State except "gestures".

VII. THEUNISSE IS PERSISTING IN ALL HIS ARGUMENTS, KEEPS FIGHTING EVERYTHING THE STATE HAD TRIED AGAINST IT AND IS EXPLICITLY OFFERING PROOF FOR ALL HIS ARGUMENTS BY LAW AND WITNESSES.

March 19, 1982. Counselor, Mr. Fleskens.

19)

PELS RIJCKEN & DROOGLEEVER FORTUIJN, STATES LAWYER

To the Honorable Sir, Mr H. Schadee, ROTTERDAM

Date: March 26, 1982, Our ref.: DF/MvdH, Your ref.: Case: State/Theunisse

Most Honorable Sir,

Mr. Fleskens did send me a copy of his "Memory after Comparison and preliminary advice". To prevent further delay of the case, I answer now to this letter from Mr. Fleskens.

Costs for Legal assistance.

My first reaction is that Mr. Fleskens himself shows here that he indeed is doing a lot of unnecessary work. My second reaction is, whatever about his work it is like this, if a lawyer has to collect a sum of f. 80,000- for a client, than he cannot in reason ever claim more for his work, but much less then this amount. Therefore is his declaration of more than f.121, 000- irresponsible towards his client. I will hereafter react on Mr. Fleskens letter. If I do not comment on every line of his extended story, this does not mean that I agree with it. I only say this for security. The State was in no way acting unlawfully or untrustworthy. I agree with you that the case would have been much easier if Theunisse had taken the ship in custody

immediately after the salvage. Theunisse could have known short after the claim, which he served to the State that the State did not wish to pay this claim. This was a good reason for custody on the ship. Also, if Mr. Fleskens thought to have good reasons for not taking the ship in custody, he could have had opted for an easier way to get payment: A short-term Court Procedure. Mr. Fleskens opted for a preliminary hearing to establish who the contracts-party was for Theunisse. I can understand that, and I do not object if you will grant to Theunisse the payment of these costs. However, after these hearings he should have had gone to Court, which he did not. Mr. Fleskens did instead a lot of unnecessary work, until the moment of the binding advice procedure, because of the agreement of September 17, 1980. In general, I have now proved that the declaration from Mr. Fleskens cannot reasonably come to the account from the State. More specific: In the declaration from Mr. Fleskens is a note for 8 hours for "Various Publications, talks with the Press, lawyers, and talk's with client about Publications". Something like this, one cannot bring to the account from the State!

To close with: You are asked to advise about which salvage reward Theunisse must receive and which costs must be paid to him reasonably for legal assistance, under which also these from the beginning on. I stay therefore on my standpoint that you were not asked to advice about the personal costs from Theunisse. I mark here that the State does not recognize any obligation for paying costs and damage and also reject these costs and damage. I do not see it necessary to go into this in detail. A copy of this letter I send to Mr. Fleskens. Yours truly, E. Droogleever Fortuijn.

20)

Mrs Van den Heuvel & Fleskens, Lawyers & procurers

To The Honorable Sir, Mr H. Schadee, ROTTERDAM.

TILBURG: April 15, 1982. Theunisse/State of the Netherlands.

Honorable Sir,

Answering your letter dated March 29, 1982, I can write you as follows. I have asked the additional advise which I mentioned before from Mr. Waleson. Mr. Waleson was involved in the case in a very early stage as counselor from the firm Dijkhuizen who also went to sea for salvage of the Magdalena, but in vain. Mr. Waleson is specialized in Maritime Law, while I am not. Mr. Waleson has followed this case closely because he is interested. I had also several contacts with him during the case. On his request, I have sent him that time a copy of your preliminary advice. After the Comparison, I have called him and explained him the

situation, that the suggestion was arisen that I had done a lot of unnecessary work, and had chosen a wrong policy in the case. Also I have send him my Memory after Comparison and I have asked him to study the case and to give his opinion about the case so far, and especially I have asked him if he would had chosen for a other policy in this case. I have asked him to give his opinion as Maritime Law Specialist. Also, I went to Mr. Bruynincxk and Mr. Van Oosten, the lawyers from the firm Muller at Terneuzen and also involved in an early stage in the case and also because of a trip to the Magdalena in vain. These lawyers were not familiar with the case. I have spent an all day, together with my client, at their office in Rotterdam, and we have talked the case over about all aspects. I have left them copies from all relevant documents. Also them, I have asked to give their vision on the case and about my chosen policy in the case. Both offices, Mr. Waleson and Mrs. Bruynincxk and Van Oosten I have asked their view. What policy they would have had chosen, if Theunisse had turned to them for legal assistance. Mr Bruynincxk and Mr van Oosten supported both my policy and so did Mr Waleson. Now I will react on the letter from the Sates Lawyer, dated March 26, 1982.

Costs for legal assistance.

According to the rules for declarations, lawyers are free to calculate on the basis of hours. If it was true what the States lawyer says, then not one case with a minor amount involved, could possibly lead to a reasonable payment for our declaration. On top of that, this case is now no longer about f. 80,000-, but it is now a case of around f. 450,000-.

I have taken notion of the fact that the State does not find it necessary to go into detail about the possibilities of custody on the ship for my client. The State is ignoring completely my vision. It is correctly mentioned however by the States lawyer that the State was denying every obligation for payment to Theunisse! The alternative of a short-term Court Procedure was not at all a better alternative. By the time of the preliminary hearings, the case was already in political discussion. Questions were asked by Parliament to the Secretary, etc. By the policy chosen by me, I have avoided the short-term procedure, the process-risks, the costs, and above that, the case remained in the interest of the political forum, which is not possible as soon as the case is brought before a judge. Also after a fully won short-term procedure, the result would also have been, without a doubt, a follow up by asking an expert to establish a salvage reward. Now, in August we have reached the same result as in a short-term procedure, in a shorter time, and with more possibilities. In addition, I remind you that going to a Court were the "wish" from the States lawyer. In a very early stage, he was repeatedly challenging

Theunisse aloud to do just that, and he promised in that case, to keep Theunisse busy for the next years! Of course was the State repeatedly acting unlawfully and Untrustworthy in this case. See the following list:

1. Refusing us reports from the State-Police.
2. Producing for evidence a falsified and fake sales-agreement, (Heuvelman-V/de Marel), confirmed by the investigations from Internal-Affairs and from myself.
3. Lying and cheating about the postponement of the preliminary hearings, to the State-Police as well as to the Judge-Commissary as well as to me.
4. An only partly producing of the Experts' reports from Dee Supervision, without the most revealing part, the enclosed letter.
5. Forbidding Police members to write their own reports under Oath, and falsifying such reports.
6. Producing a "taxation-report" from Mr. Rijpkema as evidence, from which report was known that the end figure beforehand had to come on the sales price.
7. Intimidating witnesses and threatening them with the loss of jobs and promotion possibilities. (See also Int.-Affairs report). And so on...

The costs for meetings with the Press, etc, I don't charge to the State but to Theunisse who can claim them back from the State, which he will do...The agreement between the State and Theunisse about asking you for a binding advise is NOT the agreement from Sept 17, 1980, but the agreement between the Secretary and Theunisse from August 18 1981, which agreement indeed was recorded by me and indeed not by the State.

Personal costs from Theunisse:

I refer to the above mentioned. The State is not producing anything new. For not paying costs for damage caused by Unlawful, acts are no grounds in the Law. For paying these

Costs are indeed grounds in the Law! The estimation of these costs is in no way challenged by the State, and therefore right. I insist that the costs for Theunisse and me are caused by the totally wrong and Unlawful behavior of the State in this case, and therefore the State is obliged to pay back these costs. The acts from the State have caused the idiotic proportions of this case, which started during the salvage and are continuing until today. Copy from this letter I send to Mr. Droogleever Fortuijn. Yours truly, Mr. E. Fleskens

21)**The National Ombudsman**

Report 81.00696, Date: February 21, 1986, Nr. 86/R064.

COMPLAINT

Complaint from Mr. G. A. C. Theunisse at Dinteloord, about the Secretary of Justice.

INTRODUCTION

On December 29, 1981, Mr. Theunisse served us a request in which he put down a complaint about the Secretary of Justice. After the Law, National Ombudsman, on January 1, 1982, became valid and carrying; I have taken the complaint in investigation.

COMPLAINT

On September 23, 1979, the drifting and later grounded radio-station-ship from Mi-Amigo, the motor ship Magdalena was saved. The State-Police and complainer, who is owner of Salvage- & Towing Company, were involved in the salvage. In connection with this, complainer requested the Secretary for payment of his salvage fee. First, he complained especially about a certain condition from the States lawyer, which was put on a final payment to him. This condition contained that he had to stop every action in this case via the press or via members of parliament. After I received information from complainer, and after studying the documents, which I received from the Minister, I decided on request from complainer, to extend my investigation in a more general manner, and to investigate the way in which the Secretary handled the salvage claim from complainer. It is the opinion of complainer that his claim was not handled properly.

INVESTIGATION

In my investigation, I turned to the Secretary. I have requested him to let me know his standpoint about the preliminary complaint from Theunisse. One of my employees observed a number of documents from this case at the department, and took copies from these with her. The Secretary added a few documents to his answer. I requested complainer for more information and I gave him the opportunity for a verbal explanation on this information. On my decision to extend the investigation, I gave the Secretary the opportunity to comment on that. His answer I received well. From complainer I received on more occasions various information.

BACKGROUND

a. The prosecution of illegal radio transmissions

Grounded on Art. 3 sep. from the Telegraph and Telephone law 1904, it is forbidden to transmit radio and television programs, from a ship outside the territorial waters. The districts court at Amsterdam is according art. 2 and 3, Sv. Appointed, to judge violations of the above-mentioned Art. 3. The officer of justice at Amsterdam is appointed accordingly Art. 9, Sv. to prosecute such violations.

b. Custody

Grounded on the Art. 94 to 102, juncto. 134, Sv; investigating detectives are allowed to take goods into custody: That is taking them and or keeping them for prosecuting reasons. As soon as the prosecuting don't need any more keeping of the goods, according Art. 118, Sv, the goods are to be given back to him from whom they were taken, unless he has discarded them, or incase another person owns the rights on the goods. In this case, the goods are returned to this person. The goods are according Art. 117, Sv. not removed, destroyed, abandoned, or used otherwise than for the investigation for prosecution, unless consent is given. Incase the goods are not fit for keeping; the consent can be given by the public department. Incase the goods are not fit for keeping for a extended period of time, the consent can be given by the court were the case shall will be judged, or was judged the last time, on order of the public department. According the Memory of Explaining from Art. 117, Sv. one have to think about goods not fit to keep for a longer period of time, as goods which can go bad, or which will degrade much in value, or wherefore costs must be made not related to the (lower) value. The Memory makes also clear that by selling the goods, a reasonable price must be made. The government has to serve properly the interests from the owner of the goods. Grounded on Art. 6, from the Rule -goods taken under custody-: Keepers of the goods and the persons who are responsible for the goods before they are transported to the keeper, have to take proper care against any damaging, degrading or chance of devaluation, or theft. According Art. 9 from this Rule, if there is a reason to believe that the goods are not fit for keeping, or for keeping during a longer period of time, the public department has to be notified immediately, to receive a consent as meant in Art. 117, Sv. According Art. 13 at last, must before a consent, for destroying, abandoning or using for another purpose, is being executed; the value of the goods has to be estimated which would have had been reasonably received if the goods were sold. If it is expected that the value is higher than 200 guilders, this estimation must be asked from an

expert who is well known with the market value of such goods. The estimated value and the taxation from the expert are to be reported.

c. Removal from sunken ships out of public waters.

Grounded on Art. 1 from the Law of Wrecks, the state can remove wrecks, which are sunken or grounded, from the public waters, ignoring claims from the owners of the wrecks for damage done by the removal.

d. The right on salvage reward.

Grounded on Art. 545 to 570, Law of Commerce (LoC), the owner or user of a ship is obliged to a salvage reward, for assistance given to a ship with her occupants and cargo.

The reward cannot be higher than the value of saved goods. An often-used salvage agreement is the Lloyds Open Form. This is a standard agreement in which is described, that the salver will only be rewarded if he succeeds in the salvage. This condition from the Lloyds Open Form is also called for short: "No Cure-No Pay".

e. Complaints about lawyers.

Grounded on Art. 46 to 60, Law of lawyers, complaints about lawyers can be filed with the Dean from the Order of Lawyers in the district where the lawyer is conducting his practice.

f. Complaints about not prosecuting criminal offences.

If a criminal offence is not prosecuted, an interested party can complain about it, grounded on Art. 12, Sv, at the court where prosecuting should be done. The court can order prosecuting or can deny prosecuting on grounds of public interest.

Findings

Grounded on information that I have received during my investigation, I state as follows.

A. The salvage of the motor ship Magdalena

The Magdalena is thrown of her anchors and is grounded on September 19 1979, on a sandbank within the Dutch territorial waters, west from the Westhoofd of Goeree. The ship is damaged and leaking. After the officer of justice at Amsterdam is informed about this fact, he is ordering the Radio-Control-Service from PTT, to go to the ship and to place it under custody, for a criminal investigation about a possible violation of Art. 3, sep. 1e, from the Telegraph and Telephone Law. The RCS is therefore transported by the State-Police to the ship. The officer of justice is asking Smit-Tak on September 21, 1979 for the salvage of the ship. Smit-Tak

reports on September 22, 1979 to the O.O.J. that the ship cannot be saved. Because of this information, the O.O.J. gives order to destroy the transmitter and take parts from it, for the investigation. Therefore, the State-Police sailed with the RP-9 in the morning from September 23, 1979 and arrives at the ship before noon. The RCS destroys the transmitter so far they cannot take this with them. During my investigation the Secretary stated that from this order, to destroy the transmitter, can be concluded that, the ship had to be abandoned and given to the sea. The group commander from the State-Police at Willemstad, onboard RP-9 is informing the radio room from the State-Police at Dordrecht, that it is possible with a small tugboat with a shallow draught, to approach the Magdalena for salvage. He is informing the radio room that he thinks this can be done, considering the leaks and the position of the ship. He is requesting the radio room to contact by telephone with the, to him known as a salver, complainer and ask him if he is willing to try the salvage on a "No Cure-No Pay" basis. The radio room is calling immediately. In the call is told that the ship has taken in custody by the officer of justice at Amsterdam. Complainer is agreeing with the request. The group commander is informing the O.O.J., in a brief call via the vhf that a salver is on its way. According several witnesses, who could follow the call, the O.O.J. is not objecting, considering the remark from the group commander that the salver is coming on a "No Cure-No Pay" basis. Complainer is sailing from Dinteloord with his salvage ship and a hired other ship to the Magdalena. Meanwhile, the group commander orders to pull the ship afloat with the patrol boat, after which the Magdalena is leaking heavily. Complainer arrives just in time to prevent the ship from sinking with the use of his personnel and equipment. While complainer is keeping the ship floating, the State-Police is towing the Magdalena to Stellendam, from were complainer is towing the ship to Willemstad. He is mooring the ship on September 24, 1979 in the harbor of Willemstad and takes precautions to keep the ship floating.

B. The sale of the motor ship Magdalena

On September 24, 1979, the following events happen. The group commander informs the O.O.J., that the ship is in a bad condition and that pumping is necessary to keep it floating, which will produce costs. An emergency repair will cost f. 50,000-, says the group commander. The O.O.J. is requesting an inspection of the ship, from an expert from the Department of traffic and water. The State-Police makes contact with the Ships-Service, who sends an expert the same day. He inspects the ship and is writing a report. He concludes in this report that the costs for keeping the ship will be high, and that the ship is ready for wrecking. He

thinks it necessary to bring the ship to the nearest scrap yard. Complainer is leaving the ship for rest.

The group commander seeks contact with a known to him, ships wrecker. He is telling the ship wrecker that the ship will be sold, and asks him if he is interested. The ship wrecker cannot handle this ship because of the size of it. In addition, the expert has contact with this ship wrecker, and also with a second one. Both ship wreckers are making an offer on the ship. The first is offering f. 11,500- and the second one f. 14,000-. The two ship wreckers are living near Willemstad, and are related to one and other.

On September 25, 1979, the following events take place. Complainer is back on the ship to see to it that it will not sink. He has made contacts with possible buyers. The State-Police brings the report from the expert to the O.O.J. at Amsterdam. The O.O.J., is giving consent for removal of the ship, grounded on Art. 117, 2^e, and to sell the ship. In addition, he asks for an extended report about the condition and value of the ship. After that, the O.O.J. sells the ship to the highest bidder for f. 14,000-. The State-Police is telling complainer that the ship is sold. He is asked to leave the ship, which he does. The buyer of the ship sells the ship to a third wrecker for f. 28,000-. The ship is demolished. The expert from Ships-Service concludes his report about the ship on September 28 1979, asked for by the O.O.J. He estimates the sales price on f. 15,000-. He is adding that this value is degraded by the condition of the ship and the short time for the decision because of that. The O.O.J. receives this report on October 11, 1979.

C. The preliminary hearing

By request from October 15, 1979, the lawyer from complainer is asking the districts court at The Hague to have held a preliminary hearing, to establish the facts and circumstances around the salvage on which the claim from his client is based. (See E.) On October 18, 1979, the court decides that the preliminary hearing will be held on November 19, 1979, before a judge commissary. The lawyer from complainer calls for seven witnesses to testify. The witnesses are the officer of justice, the group commander and six more members of the State-Police. On November 16, 1979, the States lawyer is calling the Police that only two Policemen must appear at the hearing. He instructs them that they have to have a meeting with him before the hearing. The rest of the Policemen have to ignore the call for witness. The States lawyer tells the Police that he had arranged this with the lawyer from complainer. One of the Policemen calls complainer to ask him if he knows this. Complainer answers that he did not know anything about it, that there

was no consulting about it between him and/or his lawyer, with the States lawyer. He phones his lawyer, who turns to the States lawyer. On November 19, only three witnesses are heard, and the others on December 21, 1979. Complainer's lawyer did put a complaint about this conduct of the States lawyer before the Dean of the Order of Lawyers, according the Law. (See background). The Secretary answers on questions from the second chamber about this event; that it is not his task, according the Law of lawyers, to speak out about the actions of the States lawyer.

B. The criminal aspects of this case.

Complainer is informing the department on February 18, 1980, that in his opinion several civil servants, who were involved in the sale of the ship, have behaved improper and have committed several crimes. The Secretary decides to have internal affairs investigate the matter. Internal affairs report on May 30, 1980. That report shows, that two of the civil servants, involved in the sale of the ship, are possible guilty of disprovable acts. The attorney general at Breda decides not to prosecute one of them, living in his district, because of insufficient grounds. The Secretary answers the second chamber on questions regarding this matter that it is no longer relevant to decide on possible measures against one of the two-suspected civil servants, because he is retired meanwhile. The attorney general at The Hague advises on June 5, 1980, to have no further investigation in the case of the civil servant, who is living in his district. Complainer reports on March 27, various committed crimes to the attorney general at Breda, who answers back on July 1, 1981; seeing no reasons for prosecution. He notes to complainer the possibility to complain against this decision according Art. 12, Sv. The attorney general sends the part from the letter from complainer that handles about the civil servant living in The Hague district, to the attorney general of this district, who, on his turn, tells complainer on October 12, 1981, having decided not to prosecute. He also notes complainer on Art. 12, Sv. Complainer is not using the possibility from Art. 12, Sv.

E. The handling from complainers claim.

Complainer writes on September 26, 1979, his report about the salvage, and serves a claim to the State-Police to the amount of f. 80,000-, being a part for costs, f. 40,080-, and a salvage reward from f. 39,920-, being 40 % of the value, in his opinion, of the ship.

The claim is not send, at once, to the department or to the involved officer of justice. In a letter from October 4, 1979, the lawyer from complainer summons the

Secretary to pay within 5 days the claim from complainer. He sees the Secretary in fault if this summons will be rejected. The Secretary is rejecting the claim on October 8, 1979, with as reason that there is no salvage order given. He answers also that he will return in contact as soon as he has received more information about the case. In a letter from October 10, 1979, the States lawyer informs complainer that he will handle the case from now on. From my investigation became clear that on October 12, 1979, at the department, the question was raised if the group commander possibly had used unclearly words in his contacts with complainer, so that complainer could think that indeed a salvage order was given, considering the usual customs in the salvage world. By letter from October 24, 1979, the States lawyer writes to complainer that he can recognize that complainer did assist with the salvage. He is offering to complainer a sum of f. 6,000- to pay for his assistance, being 40 % from the value of the ship has established by the expert from ships-service. Complainer rejects this offer in the opinion that he did not assist with the salvage, but had it carried out, and he persists to be paid the amount from his claim.

My investigation made clear that on February 8, 1980, at the department, one was doubtful, if they could any longer deny that a salvage order was given. In addition, the question arose, if one had to sell the ship that quickly. On February 14, 1980, a meeting is held at the department about the matter, between complainer, his lawyer, the States lawyer, and two members from the department. In a letter on March 14, 1980, the States lawyer announces that in his opinion complainer did not do his salvage for the Dutch State but for the owner of the Magdalena, and therefore has to address him for this salvage claim. He also writes that the state is offering complainer an advance payment of f. 10,000- under the condition, that complainer transfers all his rights on the owner of the ship to the state. Complainer is in financial difficulties, bankruptcy is looming, and therefore he cannot start a civil procedure against the state.

March 26, 1980, a second meeting is held at the department between complainer, his lawyer and the States lawyer plus a few members of the department. Complainer is not accepting the proposal for an advance payment from f. 10,000-. Instead he his offering a proposal: To pay to him his full claim plus the legal interest and costs made so far. With the right for the State to demand the payment back, before a court, as a non-obligated payment. The state is not answering on this proposal, and is rejecting it later. My investigation has made clear that on May 16, 1980, at the department, it was thought very possible, that they would loose such a procedure before court.

The States lawyer is ordering, on the expense of the state, an expert to value the Magdalena, based on the documents and comparing the ship with other ships from the same size and year of building. This expert is valuating the Magdalena on f. 39,200-. He estimates the costs for repairing the leaks and the transport to the scrap yard on f. 10,000-. According to this taxation, the state offers complainer to pay him for his salvage an amount of f. 15,000-. Short time before, internal affairs has completed her investigation, (under D.) and concluded that civil servants involved in the sale of the ship were probably guilty of disprovable acts.

Complainer refuses the offer from the States lawyer and is asking on July 4, 1980 to have a meeting with the Secretary to explain him his viewpoints. The meeting is held at August 18, 1980. They agree that they will put their differences before a binding advisor. Parties agree on September 17, 1980, to ask the binding advisor to speak out about which salvage reward shall be paid to complainer and also which costs for legal assistance shall have to be paid back to him, including those costs made from the beginning of the case after the salvage, and also to advise about the costs from the binding advise. The binding advisor is accepting his assignment on September 23, 1980. After a first meeting, he is asking an expert to value the ship for him, for the moment after the salvage on September 25, 1979. By a letter from April 23, 1981, the expert values the ship on f. 65,000-. He also writes that in his opinion many potential buyers could have had been interested for the ship, very short after the salvage.

In his preliminary advice from May 27, 1981, the binding advisor concludes that to complainer is told on September 23, 1979 that the ship was grounded. From various statements, he concludes that complainer and the State came to a salvage agreement. He thinks it irrelevant if this agreement has to be qualified as a salvage order. He advises the State to pay to complainer a salvage reward of f. 50,000- with additional to it the legal interests from October 9, 1979, until the day of payment. The State is paying these amounts to complainer.

By letter of October 15, 1981, the binding advisor is proposing a comparison, to give him more information, and to try the possibility of a settlement. At that moment, for complainer, the costs for legal counseling are f. 120,000-, and the personal damage is estimated on f. 180,000-. At the meeting the States lawyer is offering f. 25,000-, for all costs that complainer is claiming. Complainer is rejecting this offer. After this, the binding advisor is making an offer. After consulting the Secretary, the States lawyer is offering f. 40,000-, for all costs from complainer; under the condition, that complainer has to stop all actions via the members of

parliament and/or the press. This offer can be accepted until December 28, 1981, after which it will be expired.

Answering questions from the commission for justice affairs from the second chamber, the Secretary writes that with the condition nothing else is meant than a explicating of the term "Final payment" to emphasize that with accepting the offer the case was closed.

Also he writes that he regret it, if the impression was made with the condition that its purpose was to limit the rights from members of parliament, and members of the press, or from complainer. The commission writes to the Secretary that they had found the condition as being unjust.

By binding advice from June 7, 1982, the advisor advises the State to pay to complainer the amount of f. 40,000-, for legal advice, being the reasonable costs he would have had if he had followed a wiser and better way, in the opinion of the advisor, for collecting his salvage reward. He also advises the state to pay for the valuation expert in the binding advice procedure and also advises the State to pay for the binding advice procedure. The State has paid these amounts. About the claim from complainer for his personal costs and damage, the binding advisor is not advising because this was not a part of the binding advice agreement. After that, complainer did not commence further legal actions to get his claims paid by the Secretary.

F. The reactions from the Secretary.

In his reaction, the Secretary has confirmed to me, among other things, that complainer did serve his claim to the group commander from the State-Police, and also had tried to get in contact with the officer of justice. When this had not the result of payment for his claim, the Police showed not much cooperation to find a solution for the problem. After that, complainer turned to the department via his lawyer, were at that moment the case was unknown. Regarding the salvage, the Secretary wrote me, to still have had reasonable doubts, also after receiving the first reports, about the question if a salvage order was indeed given, while in any case the claim from complainer was excessively high. Therefore, there was no reason to pay at once and totally the requested amount. The Secretary also stated that it was a complicating factor that complainer did not go to court, like was to be expected, but instead was trying to get his payment by other means. In addition, the Secretary did confirm that some of the, with the sale of the ship involved civil servants, has made judgment errors on certain points. He did not convey this

information to complainer because he sees the handling of these matters, also in the interest of the involved persons, as an intern affair.

REACTIONS ON MY REPORT OF FINDINGS.

The results of my investigation, which I have named, report of findings, I have sent to complainer, to the officer of justice, to two of the involved civil servants, and to the Secretary. I have given them the opportunity to react on these findings, which all have done. In a first letter, complainer made some remarks on particular paragraphs in my report. Were correct and relevant, I have added these. In some sentences, he thought it necessary to stipulate again his interpretation of some of the facts. I got the impression that he could agree with the report as a whole. In a second letter, complainer offered me the comment of his lawyer on my report. The critics in that comment, which with complainer obviously agreed with, looked less inspired by the content of my report, then by the expectations of the lawyer, and his wish to be able to start a civil procedure, supported by my report. The officer of justice placed some remarks about the facts in his reaction, which I have partly added. In an extended letter, the group commander explained again his vision on the case, around the salvage and the sale of the ship, and requested me to wait with my definitive report until I myself had heard all involved people. I have the opinion that hearing more witnesses will not reveal more or other facts. In addition, I received the reaction of the Secretary in which he requested to have some facts more extensively mentioned in my report, which I did.

CONSIDERATIONS AND JUDGMENT

Introduction

I wish to consider some general thoughts, before I come to my judgment; regarding my authority and the circumspect of my judgment. In the Law National Ombudsman, I am assigned to investigate in the way a certain government body has acted towards a civilian in a certain case. Behavior of civil servants is judged as behavior of the body in which they are employed. Simplified explained, and passing limitations who are put upon me in other parts of the law, there are three principles to the authority that is given to me, which are also at the same time the limitations of my assignment. A complaint that is put before me must contain:

- A real act of behavior. -From a civil servant. -To a civilian.

After completion of my investigation, I have to judge this behavior. My standard is the "properness". There is no doubt that "properness" is a wider principle then "right-full". A "rightful" act is therefore not per definition at the same time a "proper"

act. Nor is “improper” synonym with “unrightfully”. About the hemisphere that is given to my judgment, one has to realize that these two principles are not necessary on the same boundaries. This is especially true in this case. The complaint is about the way in which the Secretary has handled the claim from complainer for costs and salvage reward for the salvage of the Magdalena, which handling he has experienced as unjust. Unjust, because him is told repeatedly that no salvage order is given to him. Unjust also, because the claim was handled to slow. One cannot regard those two aspects separately because each one is caused by various acts of various persons at different moments in time. Therefore, I had to conduct my investigation as widespread as possible, and doing this it contained also acts, which do not fit in the above-mentioned principles. I am not authorized to judge (separately) about these acts, which appear in fact in every of my findings under A, B, C, D and D.

Especially is this the case about the conduct of the States lawyer during the preliminary hearings. The States lawyer is no civil servant in the sense of the Law National Ombudsman, and neither by other methods; one can construct a responsibility from the Secretary, for the way in which the States lawyer acts. For another reason I cannot judge about the decision of the officers of justice, not to prosecute the civil servants who were the subjects of the investigation from Internal-Affairs. This because complainer did not use the possibilities to complain about this decision, given to him by Law.

Defending with the argument, “No salvage order is given”.

To judge the question, if it was proper from the Secretary to insist against complainer that no salvage order was given, one have to follow the events in that matter in a chronological way. The officer of justice at Amsterdam had placed the ship under custody. Because of that and from that moment on, the responsibility for the ship and the obligation to take care for it was resting upon him and the State-Police, according “Art. 6: Decision about goods under custody”. After the officer of justice had heard from Smit-Tak that the ship could not be saved, that is for a price that was comparable with the supposed value of the ship, he had decided to abandon the ship. The State-Police, who was guarding the ship and responsible for the transport of the people from the Radio-Control-Service, who had the instruction to destroy the transmitter; were in the opinion that the ship could be saved, considering the circumstances, the weather, and the condition of the ship. Therefore, they approached complainer who did agree with the request for salvage to him, and agreed also with the condition “No Cure-No Pay”. The

officer of justice was informed about this decision from the State-Police, when complainer already was underway to the Magdalena. The officer of justice did not object this decision, when he heard about the condition "No Cure-No Pay". In my judgment, the officer of justice approved an action from the State-Police for which he was responsible. In my opinion the officer of justice must have had given more and clear leading to this action, or must have had it ended. A good 24 hours after complainer was called into action, the saved ship was at Willemstad. When complainer two days after the salvage served his claim to the State-Police, and did not receive immediate payment, he went to his lawyer, and on October 4 1979, to the Secretary of Justice. The Secretary rejected the claim with the argument that no salvage order was given. The Secretary based this argument, so he wrote me, on information received by telephone from the officer of justice and the State-Police. The Secretary and the States lawyer used this argument for defense against the claim from complainer, until the moment binding advice was asked. I emphasize here that this viewpoint did not interfere with the fact that on a few occasions at least some payment was offered to complainer. I emphasize also that the government has the right to defend her against claims put upon her.

But to my judgment, and this is the reason that I made clear the differences in my introduction considerations, between "improper" and "unrightfully"; it is possible that defending in specific circumstances can be "improper". These circumstances are present in my opinion when already on the first view on the facts, it becomes clear that defense is impossible, or when this defense is continued against the civilian, and at the same time the government is intern already convinced that her position is not defensible. These circumstances are present in this case.

Regardless of the image which the officer of justice, the State-Police, or the Secretary could have had from the principle "salvage-order"; at the moment they had to answer on the claim from complainer; For them it must have had been clear at once, that there was an obligation for payment to complainer. No matter what name they wished to give to the activities from complainer, these activities had lead to the result that the Magdalena was indeed saved. To were than must lead the condition "No Cure-No Pay" needs no knowledge of the law. Regardless of that, the claim of complainer was rejected with the argument "No salvage-order". The Secretary was leaning for that argument on information from the officer of justice and the State-Police. The argument is held up in spite of the fact that already in a very early stage there were doubts about the correctness of these arguments. This attitude from the Secretary in my opinion has lead to the delay in,

and the fuzziness of, the handling of the claim. The few proposals for some payment to complainer do not affect this.

Delayed and slow handling of the claim

Of great influence on the way in which the claim was handled, and on the slow pace with which this was done, was another event that took place before: The sale of the ship, on September 25, 1979. Instead of asking the court's consent for this sale, the officer of justice did the selling by himself. I judge this as wrong. In my judgment, there was insufficient reason to assume that the ship was not fit to "keep for a prolonged amount of time". To keep the ship floating for at least another couple of days, the costs were not that high that the immediate selling was necessary. This could also not be concluded from the actual condition in which the ship was, which I have clearly found in the several reports. The officer of justice did based his decision on information that was given to him by the State-Police and the expert from the Ships-Service, which information indeed was alarming, as is established by me. Proved is however that this information was wrong. In the first place, one has to blame for this, the providers of this information. But it is also my opinion that the officer of justice, also for this aspect, have to had been more aware about his own responsibilities, where this case was handling about a very rear event, and in which a, in principle valuable good, being a seagoing ship, was involved. In any case, he had not to be agreed upon the situation about the only two ship wreckers.

About this situation, I judge the conduct from the State-Police as certainly not proper. There have had to been more ship wreckers invited for the sale of the ship, and, and more consideration have had to been given on the effects of the family relations between the two ship wreckers who were invited. This should have had been noticed at once by the officer of justice and corrected. The fact that the ship was sold again a few hours after the sale by the state, and for a price twice as high is typical for this. All, later on conducted valuation reports are also giving higher values for the ship; while this value at last was established during the binding advice procedure on the amount of f. 65,000-. It is clear that the very low sales price that the state did receive for the ship had (great) influence on the way in, and the tempo in which the claim from complainer was handled, because the height of the reward depends on, and is maximized by the value of the saved goods. Confronted with this, the Secretary spoke about an "excessive high claim", which

qualification is in no way justified; seen the result from the binding advice procedure.

My judgment about the handling of the claim from complainer is as follows: As pointed out by the Secretary, the State-Police did not send the claim from complainer immediately to the proper authorities. On the contrary, the Police showed little willingness to find a solution. I judge this as improper. Complainers claim have had to be handled with priority, and by separate mail sent to the appropriate authorities. After complainer did have send his claim to the Secretary, this was handled as described under FINDINGS, E, which made clear that until the binding advise procedure was started on September 23, 1980, there was frequent contact between parties, as well by writing as also verbal, without leading to any progress.

Only after complainer had requested for a meeting with the Secretary, and this was allowed for, parties came to an agreement in which a settlement for the case in principle became possible. In the light from my remarks above – as well as for the aspect of defense, as also for the aspect from the sale of the ship and the sales price–, I come to the conclusion that the Secretary had to have worked harder for reaching a solution. For the fact that the preliminary advice procedure took almost 9 months, I cannot blame the Secretary. The Secretary did pay promptly the amounts of money that were advised by the binding advisor, being f. 50,000- plus the legal interests for salvage reward, and f. 40,000- for legal assistance, and also the costs of the binding advise procedure.

The binding advisor did not advice about the other claims from complainer, his personal costs, and damage, although he has tried to reach a settlement between parties. This with the argument that his assignment did not allowed such. It is my opinion that the Secretary at that moment should have had made an offer, in a last effort to settle the matter between him and complainer. Short before the binding advice was ready, he had offered to complainer f. 40,000- for all costs from complainer, the salvage reward excluded. In the binding advice, f. 40,000- was advised only for legal assistance. I do not speak out about the amount of such an offer.

Although also in my opinion the demands from complainer were very high, it must have been perfectly clear for the Secretary that the existence of these costs was realistic and reasonable. The Secretary, in my opinion unjust-fully, did not develop initiatives. If he did not feel for this, or he could not reach a settlement with

complainer, he had also could have asked the binding advisor to give also binding advice about these last points. With this possibilities could have had been reached a final solution, if complainer would have had accepted a reasonable offer, and could have had been avoided that now, after 6 years there is still a dispute between complainer and the Secretary. The condition under which a last proposal was done to complainer, to stop all actions via press or parliament members, and which condition was the reason for complainer to turn to me, to ask for an investigation, was subject of a correspondence between the Chamber-Commission and the Secretary. I fully agree with the conclusion of the Camber-Commission and judge therefore the used condition as incorrect.

Conclusively it is my judgment that the administrative body, on the points mentioned before, did not handle correctly and proper against complainer.

The National Ombudsman: Dr. J. F. Rang.

22)

NAUTA VAN HAERSOLTE

To The Honorable Sir, Mr E. C. P. G. M. Fleskens, TILBURG

To Mr. G. A. C. Theunisse, DINTELOORD

PB/NB/1961943. October 22, 1986

Amice, Mr. Theunisse, dear Sirs,

After excruciating long talks, I found the State willing to approve the following text:

“The State declares to pay a reasonable damage payment to Theunisse, if and insofar he can reasonably prove that because of the delay in the procedure about the salvage reward in the Mi-Amigo case, insofar the State can be blamed for this delay, the completion of his new salvage ship also is delayed, and he therefore has suffered damage, like estimated in the oversight, Costs and damage, from Mr. Fleskens, dated 09-29-1981. Incase parties cannot agree about this, a binding advise will be asked from a advisor, which will be appointed by Mr.Wubs and Mr. Blussé. With exclusion from the above mentioned Theunisse declares that he does not have further or more claims on the State, in the case of the salvage of the Mi-Amigo.”

I would advise Theunisse to agree with this formulation. It is less then I hoped for, with quite a few preclusions, but it is in any case something with we can go on. Keep in mind that without an agreement like this one, Theunisse's claim is already expired. I propose Mr. Fleskens to let Theunisse know his opinion about my suggestion, and that Theunisse let me know the outcome. In addition, I like to hear

if I have to continue with the case, or if Mr. Fleskens is going on strong. With friendly greetings,
Yours truly, P. Blussé-van Oud Alblas

22)

NAUTA VAN HAERSOLTE

To Mr. B. D. Wubs, The Hague.

PB/NB/1961943, Rotterdam, February 16, 1987. Theunisse / State

Amice,

With my apologies for the delay, I confirm you now that Mr. Theunisse agrees with the following formulation:

“The State declares to pay a reasonable damage payment to Theunisse, if and insofar he can reasonably prove that because of the delay in the procedure about the salvage reward in the Mi-Amigo case, insofar the State can be blamed for this delay, the completion of his new salvage ship also is delayed, and he therefore has suffered damage, like estimated in the oversight, Costs and damage, from Mr. Fleskens, dated 09-29-1981. In case parties cannot agree about this, a binding advise will be asked from a advisor, whom will be appointed by Mr. Wubs and Mr. Blussé. With exclusion from the above mentioned Theunisse declares that he does not have further or more claims on the State, in the case of the salvage of the Mi-Amigo.”

Theunisse did some investigations in the mean time.

Enclosed, I send you copies from the Bill of Sale, and letters from The Department of Water, Berex, and C. Muller. The letter from Berex is pointing to item b. from Mr. Fleskens. The letter from the Department of Water, points to item f. from Mr. Fleskens. The letter from C. Muller sub. 1 is item a. from Mr. Fleskens. The items c, d, and e. from Dosbouw and Dekker cannot be verified anymore because of the long time since the events took place, and Dosbouw is also liquidated. In the letter from C. Muller are mentioned a number of items that are not listed by Mr. Fleskens. Related with that, I can report you as follows: Theunisse had a contract with Willem Muller at Terneuzen, from August 1974 until December 1982, with his ships. Mr. C. Muller was in that time director from that Company. The in his letter sub 3 mentioned salvage of the ship “Luzern” was agreed upon by Theunisse with Muller for f. 1,000- an hour for his Furie-2 and Manus. Total hours were 32.5 what make a total fee of f. 32,500-. Muller complained about the limited use of Manus, which was not completed, and distracted f. 16,250- from the invoice. Lesser income is f. 16,250-. Sub 4 is about the “Montrachet” a ship from the C.F.N.R.

Theunisse could employ his Furie-2, but the reloading of a part of the cargo, 180 Tons of steel, had to be carried out by V/d Wees at Dordrecht for f. 22,500-, which Theunisse could had have done for f. 15,000-, if the Manus had been ready. Sub 5 is about the "Flecha", loaded with 1400 Tons stone, collided with the Zeeland Bridge, and had to be unloaded completely. Again, Muller invited Theunisse for this job, for f. 15,000-. But again, the Manus was still not ready, and now the Jacomina from V/d Akker at Flushing carried out the job for f. 20,000-.

Because this went on just too long, Theunisse was not able to earn back the top of his investments in the Manus, and had to sell the ship with a loss. He had invested f. 328,366-. The book value in December 1986 was f. 207,380-. The ship is sold in December 1986 for f. 100,000-. Loss on this investment is therefore f. 107,380-. I guess that we have gathered enough information by now to get together again one more time, with the hope to solve this case. I assume that you have to consult with Mr. Cleton, and I like to hear when it is convenient to have our meeting. Yours truly, P. Blussé van Oud Alblas.

22)

Expertise bureau Berex B V

To Salvage & Towing Company Theunisse at DINTELOORD.

Date: December 9, 1986. Our ref: PK/TR/

Dear Sirs,

Subject: Salvage fishing vessel "GOEREE", sunk 1980 at Stellendam.

Hereby we confirm to have invited you for the salvage of the sunken fishing vessel "GOEREE", at Stellendam, and delivered back floating again. Because your salvage crane "MANUS" was not ready yet, we had to contact another Company. We hope to be at your service with this. Yours truly, Paul G. M. Kouwenhoven

22)

Department of Traffic & Water

Division lower rivers, area Stellendam

To Salvage Company Theunisse, DINTELOORD

Stellendam. 11-6-1986.

Hereby the undersigned confirms to have contacted in 1986, the salvage Company Theunisse, for the salvage of a sunken barge at the outer harbor of Stellendam. Because the salvage ship Manus was not deployable in that time, we had to go elsewhere. Inspector Department of Water, (C. Verhey).

22)**C.L. Muller**

To Salvage & Towing Company Theunisse, Dinteloord

Terneuzen, December 5, 1986,

Subject: Salvage/ Theunisse/ Dintel/ Floating Salvage-crane Manus

Dear Sirs,

Following our contact by telephone, I inform and confirm you as follows: In that time, we (Willem Muller BV – Terneuzen and Theunisse) had an agreement on the salvage field. Because of circumstances outside our power, salvage ship Manus not ready, Theunisse was not able to carry out several salvage jobs. I refer here to:

- 1) The sunken pile driver from the Bruin Company, on the Gent-Terneuzen Canal.
- 2) A sunken barge with crane, on the River Leie in Belgium.
- 3) Salvage from the MV. Luzern at Antwerp, were you could do only a part of the job, reason why you also were paid partly.
- 4) MV. Montrachet, loaded with steel, and grounded at the Scheld-Rhine-Canal.
- 5) Collision Flecha/Eastern-Scheld bridge.

Because of these developments, we were forced at that time, to use other equipment on several other occasions, like hiring and deploying floating cranes. We hope to be of service with this. Yours truly, C. L. Muller.

23)**Nauta-Van Haersholte**

To Prof. Mr. C. J. H. Brunner, Binding Advisor, 29 October 1987

MEMORY OF DEMAND. Case: G. A. Ch. THEUNISSE, living at Dinteloord,

Demander, Counselor: Mr. P. Blussé van Oud Alblas. Versus:

THE STATE OF THE NETHERLANDS Seated at The Hague,

Defender, Counselor: Mr B. D. Wubs

1. On September 23, 1979, by order of the State, (officer of justice), Theunisse did save in a very professional way the motor ship Magdalena, (Mi-Amigo), which ship was grounded on the coast of Goeree. The officer of justice gave the salvage order first to Smit-Tak, who told that the ship could not be saved! The State sold the ship immediately after the salvage for a give away price to a ships-wrecker, and told at the same time Theunisse to leave the ship! When Theunisse served the State with his salvage claim, nothing happened. Only after endless struggling, lawyer's involved, preliminary hearings, pressing via the Second Chamber and all kinds of trouble, it came to a binding advice procedure before Prof. Schadee, by

agreement from September 17, 1980. Prof. Schadee did advise the State to pay Theunisse a salvage reward of f. 50,000-, plus the legal interest from of 10-09-1979. The State was also advised to pay Theunisse a part of his costs for legal assistance.

2. In the handling of this in fact simple and straightforward case, the State did not act in a proper way, according the investigation from the National Ombudsman, and Theunisse did suffer from that the nasty consequences. Theunisse owns a small salvage Company, the only one in that wide area of water. In the time of the salvage of the Magdalena, Theunisse owned his station-living ship and the salvage tug Furie-2, and he was building a new salvage ship, the "Manus". The financing from this project had to come for an important part from the salvage jobs made with Furie-2. The manus should have been ready for deployment normally around 05-01-1980, at the latest, which fact Theunisse did spread around in writing to several potential customers. However, the troubles around the Mi-Amigo case disturbed things badly. When the State played being deaf, dumb, and blind towards Theunisse, who had invest a lot of money in the salvage of the Magdalena, he got in trouble with the bank, and also with the finishing of the Manus. Theunisse now had to invest large amounts of time and money in this Magdalena case, for correspondence, telephone, traveling, and also more time and money into his relation with his bank. His position became such that he was almost unable to continue his normal work, let alone finishing the Manus, which delay was translated by the bank in higher interests' amounts. Theunisse did several times warn the State about these worries, but he got the impression that they did not care too much. After some time his total debts for interests and payments to the bank were raised to f. 350,000-, which sum was temporarily frozen by the bank, which made it possible for Theunisse to continue with his work with Furie-2, as the only salvage and assisting Company, incase of ships accidents on a large stretch of water. Theunisse is convinced that he had gone under, if the bank did not have had made this gesture to him. The Manus was at last finished, 3 months later.

3. Now at last, after the conclusions in the report from the National Ombudsman, an effort is made to get out of this dispute. This effort is laid down in the principle agreement that: "The State declares to pay a reasonable damage payment to Theunisse, if and insofar he can reasonably prove that because of the delay in the procedure about the salvage reward in the Mi-Amigo case, insofar the State can be blamed for this delay, the completion of his new salvage ship also is delayed and he therefore has suffered damage, like estimated in the "oversight, Costs and damage" from Mr. Fleskens, dated 09-29-1981. Incase parties cannot agree about

this, a binding advise will be asked from a advisor, whom will be appointed by Mr.Wubs and Mr. Blussé. With exclusion from the above mentioned, Theunisse declares that he has not have further or more claims on the State, in the case of the salvage of the Mi-Amigo.”

4. The oversight of the costs and damage, hereby included, speaks for itself. It is conducted by Mr. Fleskens on September 1981, and it shows a number of five projects, which could have had been carried out by Theunisse with Manus if this ship was finished on time. The fact that Theunisse was able in that time to give his lawyer these specifications with prices attached, shows clearly that these were real assignments. Theunisse does not make up these things. However, after parties agreed in the above mentioned “principle agreement”, the State did not believe the list with the missed jobs. Therefore Theunisse started new investigations, which were difficult, if only because of the long time that is passed since then, which is not his but the States fault! Deliver proof was the more not simple because DOS-Building, who gave the order for the jobs c) and d), is liquidated after the Eastern-Scheld Barrier is finished. For some of the jobs Theunisse received written confirmations. Included with this are: Prod. 1, the letter from Berex. Prod. 2, the letter from the Department of Traffic & Water, and Prod. 3, the letter from Mr. C. Muller. The letter from C. Muller is referring to four more jobs, Theunisse could not do because the Manus was not ready, and which he forgot to mention to Mr. Fleskens at the time he made his list. One have to think also about the fact that the news was rapidly spread around, that Theunisse could not deploy his new ship on time, because of which it is very probable that he has have missed even more work than now listed and proved. Listed and proved by Mr. Fleskens are jobs for a total value of f. 157,200-, to be added with the interests over that amount ad f. 25,676-, being a total of f. 182,876-. From this amount, we distract 10 % for the variable costs, fuel, etc. to f. 164,588.40, to be added with the legal interest from the date of serving of the list, 09-30-1981.

5. Theunisse is requesting the binding advisor to consider also in his investigation that he, because of the behavior from the State, and apart from the above mentioned, has suffered in his Company an enormous damage. He estimates his unnecessary costs for correspondence, telephone, traveling etc. on f. 15,000-. The total of the delayed interests and payments to the bank are f. 330,000-.

6. If the binding advisor feels the need to have the opinion of an expert about the list from Mr. Fleskens, to ask him if the prices in the list are realistic and competitive, we can think of Mr. W. C. Mange, retired director from Salvage and

Towing Company Van den Akker at Flushing, or Mr. A. Lievense from Smit-International at Rotterdam.

7. In a meeting on June 18, 1987, the State made an offer to settle the matter. Theunisse is inviting the State to make that offer known to the binding advisor in his Memory of Answer.

8. Theunisse is requesting the binding advisor to advise the State to pay to him an amount of at least f. 164,588.40, plus the legal interest over this amount from 09-30-1981, preferable raised with a amount for the points under sub. 5, or a total amount established by the advisor, and also to advise about the costs of the binding advice.

P. Blussé van Oud Alblas

23)

Pels Rijcken & Droogleever Fortuijn, States lawyer

To Prof. Mr. C. J. H. Brunner, Binding advisor

MEMORY OF ANSWER. Case: THE STATE OF THE NETHERLANDS,

seated at The Hague, Defender, Counselor: Mr. B. D. Wubs

Versus: G. A. C. Theunisse, Living at Dinteloord, Demander,

Counselor, Mr. P. Blussé van Oud-Alblas

1. For the facts of the salvage of the "Mi-Amigo", the State is referring to the report of the National Ombudsman.

2. The National Ombudsman is giving his opinion that the State had to make an offer to Theunisse to finally settle the matter. The National Ombudsman was referring to the costs for missed work and immaterial damage. He also gave as his opinion that the amounts from the claims from Theunisse were very high, but he is convinced that the existing of these costs is realistic and reasonable.

3. Because of the report from the National Ombudsman there was consulting between parties. This consulting resulted in the agreement to have the matter put before a binding advisor. About the description of the rest of this dispute an agreement was reached, which is reflected in the letter from Mr.Wubs to the binding advisor, dated September 11, 1987.

4. First important question here is, if the State can be blamed for the delay of the finishing of the Manus. According to Theunisse, fact is that this ship would have had been ready at May 1, 1980, while, again according to Theunisse, because of the State, now the ship was ready at August 1, 1980. Therefore, the period of delay for which Theunisse is blaming the State lays between September 23, 1979,

and August 1 1980. This delay is the cause of the later deployment of the Manus. Theunisse ordered the State on September 26, 1979 to pay him f. 80,000-, as salvage reward, while at October 10, 1979 his lawyer was demanding a security for f. 120,000, after which by letter from October 26, 1979 was told that the offer of f. 80,000- was expired. This letter shows that Mr. Fleskens was demanding in any case more than f. 100,000- for his client. In the fall from 1979, there was therefore a dispute between parties without any delaying action from the State, about the amount of a possible salvage reward, because the State assumed a much lower value for the saved ship. At last, Prof Schadee advised that Theunisse must be paid an amount of f. 50,000-. This advice took almost 9 months, for which time the State cannot be blamed, according to the National Ombudsman, (See report, page 16, last sentence). If parties in fall 1979, even in October, could have had put their dispute about a salvage reward before a binding advisor, or before a judge, even then it would have been unthinkable to expect a verdict before middle 1980. Conclusion about this can only be that the above-formulated question, if the State is to blame for the delay, must be answered with "No". Consequence of this is, that there is no need for any more payment to Theunisse, then already done after the advices from Prof. Schadee.

5. Subsidiary only incase the above mentioned under sub. 4 would be answered by the binding advisor with "Yes", is the question if and how much damage must be paid to Theunisse, because the Manus was not deployable in the period May to August 1980. To begin with, The State marks here that these months are not the "busy" months for salvage companies. The weather is pleasant, the spring-storms are passed, and winter-storms are not usual expected before September
Second: Theunisse could continue his work in this period normally with Furie-2. The State has doubts if his earnings would have been better with also the Manus available. Third: The earnings from 1977 until 1984 are very irregular according to the accountancy reports over these years. The better earnings with the Manus available, as claimed by Theunisse are not realistic, compared to the results from the above-mentioned period. The absolute maximum for a damage payment to Theunisse cannot be more than f. 53,000-. The State concludes that Theunisse did not prove his supposed damage in the above-mentioned period and that there is no ground for any damage payment. More subsidiary the State denies that there is any reason for paying interests.

6. For the by Theunisse sub. 5 put up demand is no ground or agreement in this binding advice procedure, and will therefore not be discussed. For Expert-advise like suggested under sub. 6 is, seen the above mentioned, no reason.

7. The State did make an offer, to avoid this procedure to Theunisse in an attempt to settle the matter. Theunisse rejected the offer and opted for this present procedure, and therefore is this offer expired, and also not to be discussed here. The State is not willing to accept the invitation from Theunisse to let the binding advisor know this rejected offer.

8. The State requests the binding advisor to reject and ignore the claims from Theunisse. The Hague, November 30, 1987, B. D. Wubs.

24)

To the honorable Sir Inspector of the I.R.S

P.o 60000 4700 KW ROOSENDAAL

July 23, 1996. Subject: Payment of revenue taxes after sale of Company.

(Year: 1994; sofi-nr. 0664 34 713)

Honorable Sir,

Enclosed you will find the documents based on which I take the liberty to preserve the revenues from selling my Company, for reinvestment at a time and place to my own choice, and doing so to compensate these revenues with the debts from the Dutch State, she owes me now for a long time, insofar these debts from the State are translatable in money. The undersigned is hearing you say now that it is not allowed for civilians to compensate debts, that this is a privilege only for the State. However, the undersigned is TAKING NOW this right to compensate, if only it is for counter- balancing the games that the State did play with me. In addition, the fact that there is no way in which I shall receive justice after all, was a reason for me to take this step. If you wish, you can acquaintance yourself with the enclosed chronological facts of the case, referring where necessary to the relevant documents, which you will find at the offices of: The Department of Justice at The Hague.

The National Ombudsman, in report Nr. 81.0096, at The Hague.

The Internal-Affairs department from the Districts-Court at s-Hertogenbosch, report Nr. 6030-313/GA. These institutions can give you any information you like about the case. Also enclosed you will find a number of Press publications in which the case is described in a more popular manner, but also according the truth. The "preliminary" ending of the case came with the binding advice of Prof. Brunner, dated March 26, 1988, about the damage done. Because of this advice, I wrote to the Department of Justice the following letter:

To the Secretary of Justice, P.o. box 20301, 2500 EH, The Hague

April 12, 1988, Subject: binding advice case: Mi-Amigo.

Excellence,

Meanwhile I received the “binding advice” from Prof. Brunner, dated March 26, 1988. I do not agree with the content of this advice. I do not consider myself bound to this advice. You will hear again from me. Yours truly, G. Theunisse

After the State had obeyed the binding advice from Prof. Brunner and had paid f. 20,000- to me, I wrote the following letter to the Secretary:

To the Secretary of Justice, P.o. box, 20301, 2500 EH, The Hague

Dinteloord, May 20, 1988, Subject: Theunisse / State (Mi-Amigo)

Excellence,

Dated May 17, 1988, I received by bank an amount of money, f. 20,000-, via my lawyer and coming from the Department of Justice. Referring to my letter from April 12, 1988, I convey to you that I regard this payment of f. 20,000- only as a down payment from you to me. Yours truly, G. Theunisse

Hereafter, a period followed of taking distance from the whole affair because of deteriorating health, but also time needed for rebuilding and repairing the damage done by the State, as far as possible, until the moment I had to say farewell to my Company, end of 1994, because health problems made it impossible to continue. Now at last, I see myself justified to equal out the injustice from a long time ago, in creating a position for myself, by long and hard work, in which now the State can demand some money from me, instead of the past situation in which the State kept me running after my legitimate and justified claim, for which I now refer to the proverb from the States lawyer: “Of course you are right Mr. Theunisse; just see how you get your money now!” AS NOTED!

When the State preferred to defend herself in the case, she had to guard my rights, first as a civilian, and second as a contracts partner. The State shall not tolerate that the rights of her civilians will be damaged and violated because of bad management, self-interest, lies, and arrogance of her Civil Servants. If this is happening anyway, the State is obliged to pay for the damage done. Of course, not the institute “State” is at stake here, and also one does not have to have doubts about our legal system and Government rules. It is because of the people who are controlling and enforcing the Laws and Rules, why things sometimes go wrong, for

the simple reason that these people are part of the whole society, in which a rather large part belongs to the “not so good and upright”. Meetings with this “not so good and upright” part of the Civil servants can lead to affairs like those that I have experienced. HOWEVER, the State is responsible, also for the losers in her service.

Therefore I conclude that in the case Mi-Amigo: The damage done by the State was NOT repaid to an amount of f. 280,000-, plus the rest of the legal assistance, which was only paid partially, and NOT repaid to an amount of f. 114,842-, plus a sum for immaterial damage, plus the legal interest over these amounts, until today’s date; is equal to the amount which can now be demanded from me by the State, which means that we are fully compensated the both of us: Which fills me with deep satisfaction. I wish you a lot of wisdom in this case, I hope you can and will agree with me. Should however this cannot be the case, then I wish you the same efforts, stress and disappointments, which I have experienced in the matter since that September 23, 1979. Meanwhile with friendly greetings, yours truly, G. A. C. Theunisse

Epilogue

Your storyteller is and remains to be, an incurable optimist.

Reason why he, when this book was almost finished, did send the first draft to the Residing Prime Secretary, Mr. W. Kok; to give comment.

See on the next pages how this developed.

To The State of the Netherlands
C/o The Prime Secretary, Premier W. Kok
Personally.

February 15 2001,

Excellence,

Enclosed you will find a CD, containing the manuscript of a book.

I think this book concerns you as First Secretary of the Dutch State.

It will be an honor for me if you will be the first reader.

This year it will be printed. After translation, it also will be made available in the English and German language. Possibly also printed, possibly on Cd-rom. In addition, shall the book become available, on a later date of course, on the Internet, probably in the "Gutenberg Project"? The manuscript is completely self-explaining; reason why I don't go into it, here and now.

Should you feel the need for it, I offer you the opportunity to give comment on the content, and have this comment send to me. I will add your comment at the end of the book, before printing and distribution. Would two full months, March and April this year, be a reasonable term to await your reaction? I don't want to force you; patience became my second virtue meanwhile.

If you do not wish to give any comment, I will have that noted in the book also.

May I point out to you, that the story in the book, somewhat unexpected, became "hot news" again, because of my own doings, I admit hastily, but I didn't know any other solution any more.

One always has to keep up some hope is it not? (See last pages).

Therefore, it would be only to your honor, to lead things in a way, that you could remain the first and also the only reader of this book.

This possibility is still available.

This letter is my last effort for a handshake with the Dutch State.

More or else this letter is not. My pound of flesh I will get after the broad publicity of the book.

Please save me legal remarks about expiring of the case, and/or objections against publishing.

The will not have any result. My feelings do not expire.

With great interest, I am awaiting your reaction.

Yours truly, G. Theunisse

DEPARTMENT OF COMMON AFFAIRS

Secretary-President

To Mr. G. Theunisse

Ref. 401591

The Hague, March 23 2001

Dear Sir,

Your letter dated February 15 2001; I received well and meanwhile read. You wrote that the enclosed Cd-rom contained a manuscript from a book. On the CD-rom are only JPG documents with pictures. The Word document is not found there. This means that I could not read the text. Hereby I return the CD-rom to you.

The MINISTER-PRESIDENT,
Secretary for common affairs,
for him, drs. M. P. van Gastel

To the Second Chamber of the Congress

P.o 20001 - 2500 EA, The Hague - Binnenhof 20 –
Tel. (070) 35641 00 - Fax (070) 356 46 83

C/o 2e Chamber fraction of the VVD Party.

C/o 2e Chamber fraction of the PvdA Party.

C/o 2e Chamber fraction of the D66 Party.

C/o 2e Chamber fraction of the Groen-Links Party.

P.o 20018, 2500 EA, THE HAGUE

April 10 2001,

Honorable Ladies and Gentlemen,

Enclosed, you will find a CD-rom, now containing three files, being:
Kok1.doc, -My letter to the Prime Secretary dated February 15 2001.

Boek1.doc, -A manuscript from a book.

Amigo.dir, -A directory with pictures.

I did send this CD before with accompanying letter to the Department of Common Affairs. The first week of April, I received the CD back from the Department, with a note attached, that they indeed could look at the pictures but that the manuscript, (boek1.doc), was missing.

I have the CD tested on various computers and found him in perfect condition.

All files were normal accessible, including the manuscript.

As I promised the Premier, I will add this "reaction" to the book.

But I am afraid; it will look a little stupid, for him.

Maybe is one of you able and willing to help the Premier with the missing file?

Alternatively, maybe, you can read something of it to him, in a spare minute or so?

In addition, I promise you to add your possible reaction to the book, as also my letter to the Premier, the reaction of the Department, and this letter.

With great interest, I am awaiting your reaction.

Yours truly, G. Theunisse

D66

DEMOCRATS SECOND CHAMBER FRACTION

To Mr. G. Theunisse

The Hague, April 12 2001

Dear Sir,

Thanks for your letter dated April 10, 2001, with CD, which we received in good order.

I am sorry to have to tell you that because of the overwhelming amount of work, to be carried out every other day, by the Members of the fraction and their employees; we do not have the time at the moment to read your extended document.

I send you the CD back and wish you good luck with your manuscript.

With friendly greetings,

DEPARTMENT OF COMMON AFFAIRS**Secretary-President**

To Mr. G. Theunisse

Ref. 405415

The Hague, May 14, 2001

Dear Sir,

Thank you very much for your letter from April 10 2001, which I read with interest. You are asking my attention for a manuscript on CD-ROM, that you send to me also.

Because of my busy schedule, so far, I did not have time to read the voluminous manuscript.

I hope to find a suitable moment for this.

De MINISTER-PRESIDENT,
Secretary from Common Affairs,

GROEN-LINKS Second Chamber Fraction

To Mr. G. Theunisse

The Hague, June 21 2001

Subject: Manuscript of a book

Dear Sir,

Thanks for your letter from April 10 2001 regarding the manuscript of a book, which we received in good order.

For the Members of the Second Chamber and their colleagues, the many signals from the society are of great value.

This is how we can track things to know what is going on.

Unfortunately, we have not enough time to react on the content, all times, of the many letters we receive from individuals and organizations, or to ask for attention on the State-political level. We hope that you will understand this.

If you do not hear from us again, this will not mean that we “did not do anything” with your letter. We will take surety notice from the content and apply your remarks if the case will come up in the fraction.

Furthermore, the Members of the GroenLinksFraction will follow closely the steps from the government. We will try to convince the government about our views.

I hope to have informed you sufficiently and remain,

Yours truly,

In name of Femke Halsema

Fjodor M. Molenaar

Mail address: P.o 20018 2500 EA, The Hague.

Telephone 070-3183030, fax 070-3182685

To The State of the Netherlands

C/o The Prime Secretary

Premier W. Kok

Personally.

Aug. 26 2001.

Your ref: 405415

Excellence,

Enclosed, you will find a new added CHAPTER 19 from my manuscript on CD, which I did send to you earlier before. Please read for the old Chapter 19 now Chapter 20.

In addition, I pinpointed the text a little on some other pages of the book.

By the way, how do you like the enclosed promotion flyer for the upcoming book?

With friendly greetings,

Yours truly, G. Theunisse



Now it's up to your judgment.

I would never ever have had survived this story without RINA.