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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CHARITY

Reference: Operation E10/0035

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 1 MARCH 2011

AT 10.10AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Commissioner, I have Mr Dominic McGee in the hearing room whom I'm about to call to give evidence. And I expect that there will then follow after the conclusion of his evidence the tendering of a number of witness statements, some of which may become controversial, some of which may not. And we've also endeavoured to marshall today evidence from various receptionists of various clinics at each of the two hospitals. I understand that in respect of one of the hospitals, the particular clinics don't function properly without at least one of them being there. So it may be that during the course of today there'll need to be some adjournments for the purpose of accommodating travel arrangements. But we'll endeavour to keep it moving as efficiently as we can. Having indicated that, Commissioner, may I now call Mr McGee.

THE COMMISSIONER: Yes. Is Mr McGee represented?

MS FURNESS: I represent Mr McGee.

THE COMMISSIONER: Do you need a section 38 order?

MS FURNESS: I do seek a section 38 declaration.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr McGee and all documents and things produced by him during the course of his evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY MR MCGEE AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

THE COMMISSIONER: Mr McGee, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR MCGEE: Under oath.

THE COMMISSIONER: Would you swear Mr McGee in, please.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Thank you, Commissioner. Now sir, is your full name Dominic McGee?---Yes, it is.

10 Thank you. And you're currently employed as an accounts clerk with the South Eastern Sydney and Illawarra Area Health Service or at least you were when you gave your statement?---Yes, I am.

Now in that respect is it the case that you provided a statement of evidence to Commission investigators on 2 November, 2007?---That's correct.

2010, I do apologise?---Yes.

20 Thank you. Could I provide you with a copy of your statement with a copy for you, Commissioner. And Mr McGee is that a copy of the statement of the date that I have just identified?---Yes, it is.

And is the content of that statement true and correct to the best of your ability?---It is to my knowledge, yes.

Thank you. I tender the statement, Commissioner.

THE COMMISSIONER: Yes. The statement of Mr McGee is Exhibit 73.

30 **#EXHIBIT 73 - STATEMENT OF MR McGEE**

MR ALEXIS: Thank you. Now sir, I understand from paragraph 3 of your statement that you've been an employee of, of various health services for about 25 years. Is that so?---That is correct, yes.

40 The last 15 of which you have worked in your current position in the accounts payable section for the South Eastern Sydney and Illawarra Area Health Service?---That's correct.

Now should the Commissioner understand that you were tasked on a separate project during the early part of the 2008 calendar year, but returned to your position in accounts payable in about early July of 2008?---That's correct, yes.

And your accounts payable manager at that time was Caroline Gutowski. Is that so?---It is. Correct, yes.

And your team leader or supervisor was Belinda Thompson?---Yes.

Thank you. Now could I ask you some questions concerning the subject of financial delegation. And if we look at paragraph 6 of your statement you there tell us that there was such a thing described as a Financial Delegation Manual and in that paragraph you refer to it as being a physical file and also something that could be located on the area health service intranet system. Do you see that?---Yes.

- 10 Now, just the reference to “physical file” what should we understand that to be?---It was actually a hardcopy of the delegation manual, that was in a, in a folder that would’ve been located in, within the manager’s office.

Right. And so - - -?---That we referred to.

The physical file as distinct from access electronically or something that could be obtained and looked at if it was necessary to do so?---That’s correct, yes.

- 20 All right. Now, in paragraph 7 you tell us about your understanding concerning what checks would be made regarding financial delegation of the authorising officer, do you see that?---Yes, I do, yes.

Now, is this something that you had responsibility for yourself in the 2008 year checking the authorising officer’s name and signature?---No. No, not at such, no.

- 30 So when you express your understanding at paragraph 7 what’s that based on?---That was just the general sort of knowledge of the process.

And that’s general knowledge based on you working in the accounts payable section?---Yes, it is, yes.

All right. Now, could I just understand some detail about it. In paragraph 9 over the page on page 3 of your statement, sir, you say that the manual, that is, the Financial Delegation Manual is based on a position title rather than listing every employee, do you see that?---Yes.

- 40 So if I was to go to the manual to see who the authorising officer was in relation to a requisition that came from the Gynaecological Oncology Centre of the Royal Hospital for Women what would the manual tell me as to who the authorising officer for such a requisition was?---To my knowledge it would state that you would have three delegating, three authorising people, that would be the initial person then their manager and they would have a level of authorisation respective to their position and then the final authorising officer would be their, someone higher in their management chain.

So if I went to the manual whether the physical one or the intranet form of the manual it would tell me that a person signing as an authorising officer had to be someone who held a particular title or position, is that so?---Yes.

Did it identify the person's name? And let me explain what I mean by that. Did the manual identify the person who actually held that title or position at the time?---From my knowledge I think it did, yes.

10 All right. Now, what about signatures? Was there anything in the manual which would enable you to check to see whether or not the signature on the requisition form which was represented as signed by the authorising officer was in fact that person's signature?---I'm not fully aware of that but to my knowledge I think they were not copies but they weren't, they weren't like copy signature of the authorising officers to my knowledge.

THE COMMISSIONER: Where were they?---Sorry?

20 You said there were such copies of the signatures where were these copies? ---They would've been, I'm of the knowledge that they would've been within the manual.

I beg your pardon?---Within the manual.

Within the manual?---Yes.

30 MR ALEXIS: So if we look at paragraph 10 on page 3 of your statement and we see there that you tell us of your belief that within the accounts payable section there may have been a register of signatures as a point of reference for staff working within the section, do you see that?---Yes.

So does that mean that there was something available against which you could look to see whether or not the signature on the requisition form looked like or appeared to be similar to a specimen signature of an authorised person?---Yes, there would've been.

40 THE COMMISSIONER: As I read paragraph 11 there seems to be, no, I'm sorry, paragraph 10 the, there's a reference to a register of signatures, that's in, is that different from the signatures that you find in the manual?---They would have been, would have been one and the same.

So would the register have been duplicated in the manual?---It would have been, yes.

MR ALEXIS: But does the Financial Delegation Manual identify the person at the particular time that occupies the position of authorising officer?---To my knowledge it would have been, yes.

And it also contained a specimen of their signature?---Yes, to my knowledge.

So one would be able to compare the form of signature on the requisition form against the specimen of that signature to see if they appear to be similar?---That's my knowledge.

10 All right. Now, Mr McGee, in your statement towards the back end of it and I'm looking at paragraph 37 on page 9, you tell us that you processed three tax invoices from Medical and Clinical Informatics Consultants, apparently on 22 July, 2008, do you see that?---Yes, I do, yes.

And if we, pardon me, look at paragraph 39 of your statement I think that tells us that one is able to go into the Oracle system which identifies the operator's initials and it's through that process and the identification of your initials, name DM/1 that we were able, you were able to identify those three requisitions and invoices as having been processed by you, is that so?  
---That's correct, yes.

20 Right. Now, in paragraph 40 you refer to the information on the requisition form as you then believed it to be true and correct and, Mr McGee, I'm not suggesting otherwise - - -?---No.

- - - just so that we're clear?---That's cool.

But you then tell us that they had been approved for payment by D Marsden, deputy director at the hospital, do you see that?---Yes.

30 Now, do you have a recollection of going back to the financial delegation manual to check whether or not someone called Marsden was in fact the deputy director of the Royal Hospital for Women at the time you processed the requisitions?---Do I have a, sorry?

Well, do you recall going back to the - - -?---To the manual itself?

- - - to the manual to see whether a person called Marsden was the deputy director of the hospital at the time?---I don't recollect that.

40 And do you recall going to the manual and having a look at the specimen signature to see whether or not the signature on the requisition form looked similar to the person's signature who had authority to sign as the authorising officer on these requisition forms from the hospital?---No, I don't recall, sorry.

All right. If it be the case, and I'd ask you just to assume this for the purpose of my question but if it be the case that someone called Marsden had no authority to sign these forms as an authorising officer and if that information as to who did have authority was available in the Financial

Delegation Manual, what, what does, how should we understand or try and explain why these invoices were processed when the person who signed as authorising officer didn't have the authority to do so?---Can you just restate that, please.

If you could just accept for me for the purpose of the question that the person called Marsden, who signed the requisitions that you processed had no authority to sign as authorising officer, if could just make that assumption for me?---Ah hmm.

10

It would appear that the requisitions have been processed without the Financial Delegation Manual or the specimen signatures being checked? ---They were generally were checked by someone further along the line as to whether they were fully authorised.

So when you told us about the availability of the manual and that it was checked to match the name of the authorising officer on the form - - -? ---Yes.

20

- - - with the person who was said to be authorised in the manual, that's something that you didn't do but was done down the line. Is that what you understand - - -?---It was generally done previous to coming to us, yes.

So given that your initials are recorded as relating to three of the requisitions and invoices that were processed - - -?---Yes.

30

- - - at what point in the processing procedure would you have expected the Delegation Manual and the signatures to be checked before the process was completed and payment was made?---I would have assumed that we had, because generally there was, it came through from another section that would deal with requisitioning and they would check those off against a manual to say that they were correct. And then it was assumed that they were would have been checked by a business manager or someone further up the line before they came to us as well.

I see. Well I just want to get clear at what point in the process your assumption applies? Do you understand what I mean?---Not quite sorry.

40

Let me be clearer. Not quite. I'm sorry, let me withdraw the question and let's start again. It seems pretty clear I think that having regard to the three invoices that you processed for payment, having got through in circumstances where Marsden did not have the authority to sign as authorising officer, the requisitions and the invoices were processed without that being checked. Otherwise one would expect it would have been rejected. Is that a fair - - -?---That would be correct. But they would have been checked at a previous level.

You told me that you were involved in the processing of those three?--- Yes.

Paragraph 37 tells us that by reason of the initials that belong to you in the system, we know that you processed three of those requisitions and invoices on 22 July, 2008. Do you see that in paragraph 37?---Yes.

And we also see from that paragraph that each of those requisitions and invoices were paid to the particular vendor on the same day. Do you see that?---Yes.

- 10 Now you told me when I drew attention to Marsden not having the authority to sign as an authorising officer that you made an assumption that someone was going to check that other than yourself?---Yes.

Now I just want to understand does your assumption about someone else checking it apply before the requisition and the invoice was received by you and then processed by you or was the assumption that someone else would check it apply after you had entered the details into the Oracle system for payment?---The assumption would be that it was all authorised and was checked previous to us.

20

Before, before it came to you?---(not transcribable) the system, yes.

I see. Now, can you tell me then the reason for or the basis of the assumption that you made before the requisition and invoices came to you for processing? Why did you assume that someone else up the line or down the line or horizontally perhaps was checking the delegation as accurate and the signature as accurate?---Well, it generally it went through a process of going through officers of the organisation and then through another group of, that would process the requisitions and they would check those off to

30

make sure they were, were correct.

And who, who did you understand, pardon me, who did you understand was checking the accuracy of the name and signature of the person signing as authorising officer?---Generally they would come through from either our purchasing department or our, what we call the data entry area and then come to us for payment after they had checked - - -

All right?--- - - - all the details.

- 40 THE COMMISSIONER: And what is your function?---My function was as an accounts payable officer.

And, and - - -?---To process the invoices.

Not to check them?---No.

MR ALEXIS: Now, in your statement from paragraph 11 you deal with the subject of cost centre numbers and in paragraph 12 particularly you refer to

the purchasing officers and/or the data entry officers being responsible for checking the correct cost centre numbers. Do you see that?---What paragraph was that from?

I'm sorry, Mr McGee, its page 3, paragraph 12?---Yes.

And is that a task that as you understood it occurred before you received the requisition and the invoice, the invoice for processing?---Yes, it is, yes.

10 And do you have any knowledge as to what would happen in 2008 if the cost centre number had been checked and was found to be incorrect?---That, that payment would have been, probably would have been cancelled.

But do you know whether or not the - - -?---That would have been stopped from - - -

- - - cost centre number would be corrected?---It would have been, yes.

20 And once corrected it would then come through to you in its corrected form for processing?---That's right, yes.

All right.

THE COMMISSIONER: It would have been corrected by some other department?---Yes, it would have been, yes.

30 And do you know how they would work out what the correct cost centre number was?---They would have checked probably a cost centre listing to see whether that was correct and (not transcribable)

By reference to what?---Sorry?

Well, what would they be looking for? They would be, they would look at the cost centre number and see what department it was for I take it?---Yes, they would, yes.

40 And if, if it was for the wrong department according to the goods on the invoice they would change it to the correct cost centre number would they?---Yes.

Without talking to anybody, they would just do that automatically on their own?---No, it would have to be liaising with probably a business manager or someone like that to make sure that was, those details were correct.

MR ALEXIS: Now, I might pass over what you tell us in your statement concerning the vendor maintenance forms because I gather from the way you deal with that subject that's not something you dealt with, is that so?---No, I wasn't, no.

So if we come then to some detail concerning accounts payable procedures which I think is something that you were involved in, should we look at paragraphs 18 and following of your statement, is that where you deal with that?---(NO AUDIBLE REPLY)

Now paragraph 20, if I could just start there because there you deal with a situation where a tax invoice is received but without either a purchase order or a requisition, do you see that?---Yes.

10

And you tell us that that's placed on hold until such time as approval for payment is received from an appropriate delegated officer of the hospital, do you see that?---Yes.

Now, by "on hold" do you mean that it's just put to one side and is matched up with the requisition or the purchase order at some future point in time or is it placed on hold after the details are entered into the computer?

---Generally an invoice would be placed on the system and put onto a manual hold to stop it from being paid until we had the - - -

20

By the system you mean the computer system?---Computer system, yes.

Now, I just want to come to paragraph 22 because I need to check what you tell us there but can I ask you to read paragraph 21 and let me know when you've done so before we come to 22?---21 yes, that's right.

If you could read paragraph 21 to yourself?---Okay.

30

Now, I'm just not sure what you mean in paragraph 22 given the evidence that you've given us about things being checked up the line. You see in paragraph 22 you say, "I'm not sure if any person had the responsibility for checking the authorising officer's signature or if that person had delegated authority to approve." Do you see that?---Yes.

Now, I know you've told us that you didn't do that but you also went on to say that it was done, as you understood it, before the requisition and/or the invoice came to you. So how should we understand paragraph 22 in light of that?---(NO AUDIBLE REPLY)

40

Perhaps it's a mistake?---I think it must be, yes.

All right?---Yeah, sorry. By the looks of it I think I've got myself confused with, with that, yeah.

Yes. Because it seems when one reads paragraph 22 that it doesn't sit happily with the evidence you've given about your understanding about things being checked before they come to you?---That's right.

Now, over the page on page 6 of your statement you deal with the subject of tax invoices being processed even though the person may not be familiar with the authorising officer's name or position, do you see that?---What paragraph, sorry?

Well, perhaps you ought to read to yourself paragraph 23 and 24 and then I'll ask you a question. Have you read paragraphs 23 and 24, sir?---Yes, I have.

10 Are you telling us in paragraph 24 that you have knowledge of some circumstances where the fact of a name and a signature next to the part of the requisition form that requires an authorising officer to sign is good enough and the requisition and the invoice relating to it is processed on the basis of that and nothing more?---Can you ask again, sorry?

Yes, of course. And I'm not trying to put a trick question to you, sir - - -?  
---No, I realise that.

20 - - - but are you saying in paragraph 24 that you are aware of circumstances where the requisition form and the invoice are processed simply because there is a name and a signature next to the space where the authorising officer's name and signature is to go and nothing more?---I would assume that they wouldn't have gone, wouldn't, shouldn't have put those through just on that basis alone, no. So - - -

I know and that's no doubt based on what you've already told us about the procedure. But should we understand what you're telling us there that you are nonetheless aware that that does happen?---Some may have.

30 The people working in the accounts payable section simply look at an, look at an invoice, look at the requisition, see that there's a name and a signature next to authorising officer and accept that on its face as being enough and proceed to then process it for payment?---I assume that that can be the case at times, yeah.

40 Now paragraph 24 commences by saying that you're aware that under some circumstances what we've just discussed occurs, what are those circumstances, sir?---I remember at the time that we had a large volume of, of work going through, through circumstances within the system. That there was merging of areas and there was large volumes of work coming through. So we were advised that if we covered those aspects that we could process invoices.

Was this following the merger of the South - - -?---South Eastern Sydney and the Illawarra.

- - - Eastern Sydney and the Illawarra Area Health Services - - -?---Yes.

- - - into one. Is that so?---(NO AUDIBLE REPLY)

And in the result of that merger to your knowledge and you've been a career employee with the area health service it seems, but as a result of that merger was there changes in, in staff and - - -?---Yes, there was, yes.

People that have been there for a while were leaving and new people coming?---Yes. Yes.

10 And some of those people that were coming were contract staff - - -?  
---That's correct. Yes.

- - - rather than employed staff?---Yes.

Would one of the circumstances where that might occur be because the invoice on its face looked overdue and there was some communication from either the hospital or the supplier demanding payment?---Yes.

20 Are you aware of that being a circumstance that - - -?---Yes, it would have been one, yes.

And if we look over the page on page 7 of your statement, paragraph 27 tells us that as a general rule only original documentation would be accepted unless there was urgent or exceptional matters. Do you see that?---Yes, I do. Yes.

Now by general rule should we understand that as an employee you were told that original documentation ought to be insisted upon. Is that - - -?  
---That is correct. Yes.

30 So how does the exception relating to urgent or exceptional matters come into play with that general rule as you understood it?---If it came down to the fact that we weren't able to find the original documentation we would then have to request a copy from the company or the organisation requesting payment.

Now in paragraph 29 you refer to the process of the area health service accounts payable section paying the oldest invoices first before any more recently received invoices. Do you see that?---Yes, I do. Yes.

40 And how did, and how did that arrangement come to operate as you recall?  
---Well, generally there was a, a policy that invoices should be paid within a 45-day period of invoice dates and anything that was over that had to be processed as an urgent matter depending on whether we were being contacted, if we were contacted by the, the company concerned we had to process as soon as possible.

And was that your practice if there was contact by someone seeking payment of the invoice, that would have some influence on the way you processed the invoice for payment?---Yes, it would, depending on how persistent they were, yes - - -

In paragraph - - -?--- - - - and the urgency of the, of the matter.

10 Thank you. In paragraph 30 of your statement you use a turn of phrase in relation to a persistent vendor. You tell us that you would usually try and “get them off your back.” Do you see that?---Yes.

How, how was it when people would make contact with you wanting payment, was it, was the fact of persistent callers something which would occupy your day?---Yes, it would, yes, that could be the majority of your day.

The majority of your day?---A large portion of it, yes.

20 Now, just in that regard, did you ever come to have a telephone conversation or perhaps a series of conversations with someone called Sandra Lazarus?---I do remember one or two conversations, yes.

Just have a look at page 8 of your statement from paragraph 31 and do you see that you there tell us that you received several telephone calls from her around July 2008 before you processed those three invoices that we spoke of earlier?---Yes, that’s correct.

30 Now, if I could just ask you some questions to understand your recollection about this, do you recall how it was that she introduced herself to you?---I think she had advised that she was a, an employee or a, a contractor for the hospital and that these companies were contacting her for payment of those invoices.

I see. Are you sure about that?---(NO AUDIBLE REPLY)

Are you sure about that?---Yes, I am.

40 Just have a look at paragraph 34 of your statement and you see that you tell us that you have had an understanding that Ms Lazarus was ringing as an employee of the hospital rather than a vendor, you tell us that Ms Lazarus would state that she was being chased by the vendor for payment of their tax invoices, do you see that?---Yes.

Now, are you able to recall as best you can what she actually said to you which led you to that understanding?---I don’t recall specifically no but I just know within her actions that I do remember her saying that the companies were chasing her for payment.

When we spoke earlier about persistent people ringing and you wanted to get them off your back, was that ordinarily people ringing on behalf of the supplier who wanted to get paid or was it - - -?---That could be both.

And when you say both, what's the other type of people?---Well, the, the company could be ringing you, chasing you for payment or we could have people from in, from within the organisation asking if we can get a payment done because the suppliers were contacting them.

10 And when you say within the organisation you mean the hospital organisation?---Employees of the - - -

THE COMMISSIONER: Of the hospital?---Of the hospital and area, yes.

MR ALEXIS: So when you had this conversation or these conversations with her you took her to be ringing on behalf of the hospital, not on behalf of the supplier?---No, I took that to be as an employee, yes.

20 THE COMMISSIONER: But that, that's by reason of what she said to you? ---Yes.

MR ALEXIS: So did you ever understand that in processing these invoices that the company, Medical and Clinical Informatics Consultants, was controlled by Ms Lazarus?---No, I did not, no.

30 Now, can I just ask you to look at paragraph 32 of your statement and you see your reference there to being constantly contacted by phone and you express yourself there by reference to her being "quite persistent", do you see that?---Yes.

How should we understand what you mean by that, what did she do or what did she say which led you to tell us in your statement that she was quite persistent and constantly contacted you?---I would get a number of phone calls within a day, she would ring you and I would be contacted in the morning and be contacted probably a number, a number of times during the day in regards to getting these invoices paid.

40 But apart from the number of calls was there anything about what was said or perhaps the tone of what was said down the phone to you which led you to describe it as being, described her as being "quite persistent."?---It was more just the number of calls that were being placed that she would on a, pretty much on a daily basis requesting payment of the invoices.

THE COMMISSIONER: Did she explain why she wanted payment?---It was just that the company was chasing her for payment.

MR ALEXIS: Do you know how she - if you don't please say so but do you know how it was that she was able to make contact with you and she

would've known that you had something to do with the processing of these tax invoices?---I think it was the fact that she may have known that our numbers were, we were the accounts payable and she was out, she just rang through to us. It was generally known within the area our phone numbers.

THE COMMISSIONER: Why would she speak to you, were you the only person dealing with accounts payable?---No, there was a number but I just, that just happened to be the desk that I was sitting on at the time, that was the phone number that she rang through to.

10

And you happened to be dealing with this, the payment of these invoices? ---I was dealing with that part of the alphabet at the time.

But she just, it's just a matter of coincidence as far as you know that she chose the right person to speak to?---Yes.

MR ALEXIS: Now, Stacey Linton I think used to work with you in the accounts payable section?---Yes, she did, yes, yes.

20 And did you and she ever speak about the subject of receiving calls from Ms Lazarus?---We may have done but I didn't recollect.

All right. Thank you, Mr McGee, that's all I wish to ask.

THE COMMISSIONER: Ms Soars?

30 MS SOARS: I'm reluctant to do this, Commissioner, but I just think to be fair to my client a five minute adjournment just to check if there's anything additional I should put and then I'll be in a position to examine Mr McGee and I don't expect to be long.

THE COMMISSIONER: Yes. I'm just thinking of the days when I used to practice and they didn't have statements and we were expected just to move on but I see things have changed have they?

MS SOARS: Well, where matters involve instructions, Commissioner.

40 THE COMMISSIONER: Is there such a thing as anticipation? We'll adjourn for five minutes again.

SHORT ADJOURNMENT

[10.54am]

THE COMMISSIONER: Yes, Ms Soars.

MS SOARS: Mr McGee, my name is Julie Soars and I'm a barrister for Sandra Lazarus. I'm going to ask you a few questions if I could. Could you

go the attachments to your statement, please. And the first one is the requisition form number 7-8-3-2-0-9 which I understand to be at page 107 of the Exhibit 1. Requisition 7-8-3-2-0-9, do you have that?---Yes, yes, I do.

I'm going to ask you a question about that if I could. Can you see under the requisition number there's an account code?---Yes I can, yes.

10 What does the account code represent?---That would reflect the, the item within in the chart of accounts of our system. Whether it's a, a medical item or something along those lines.

It's a classification number?---A classification, yes.

And it's supplied by someone within accounts is it?---Generally from a business manager level.

So is it your evidence that it was there, usually there before you receive it? ---Yes, it is. Yes.

20 But looking at that one there is that your handwriting or - - -?---No, it's not.

Did you complete the number?---No.

And do you know what that code represents?---Not at face value, no.

You gave some evidence Mr McGee that there was a merger of the organisation?---Yes.

30 Can you just identify at what point in time that occurred?---That occurred I think that was around 2002, I think it was between the South Eastern Sydney and the Illawarra.

And you gave some evidence that large volumes of work started coming through following the merger?---Yes, yes.

So is it the case that in 2008, around about July/August there were large volumes of work coming through your department?---Yes, oh, yes.

40 And you gave some evidence that the calls that you received from various people took up a large portion of your day. Is that correct?---That's correct.

So you were taking, can you estimate how many calls you were taking in a day?---Some days you could take - - -

Even so let me just identify in say July, 2008 approximately?---You could get upwards from 100, 100 calls a day.

I want to take you to paragraph 32 of your statement and suggest to you that Ms Lazarus only telephoned you once or twice during that period. That's correct isn't it?---No, that would have been on a number of occasions.

And you have a clear recollection of that or - - -?---Yes.

THE COMMISSIONER: Do you mean once or twice a day or once or twice over - - -

10 MS SOARS: No, one or twice during that period, Commissioner.

THE COMMISSIONER: Of seven to ten days.

MS SOARS: Yes.

Is that what you understood of that question or I'll ask it again, once or twice during that period of seven to ten days?---I, I believe it was more than that.

20 But do you accept, you accept don't you that you can't be entire sure now with the passage of time?---No, I am quite certain that that was a number of occasions per day.

And could you look at paragraph 34 of your statement and the last sentence, could you read that to yourself. Ms Lazarus never said to you that she was being chased by the vendor for payment of the tax invoices, did she, you can't recollect that now, can you?---I do, I do remember her saying that the company was chasing her, yes.

30 Do you recall having a conversation with Ms Lazarus some time in July or August following the processing of these requisitions?---I do remember, do remember speaking to her on a couple of occasions, yes.

A couple of occasions. And do you recall that she said to you that the requisition book in her, in the department where she was in gynaecology at Royal Hospital for Women had gone missing and she sought some advice from you as to how to send invoices for payment in those circumstances? ---No, I do not recollect that, no.

40 And is it correct that, well, is it correct that it's possible that she might have called you about that matter?---She may have done, yes.

Yes. And I'm putting to you that she said to you, that you said to her that the way to process them, the invoices was to write "goods received" on them and sign them and put on there the cost centre and the account code and send them through, that's possible isn't it, that you said that, that to her in July or August 2008?---Not, I don't recollect saying that.

Do you accept you could have said that and you can't now recall?---It's possible.

THE COMMISSIONER: Would you have given an accounts code?---No, I wouldn't have.

Did you know it?---No.

10 And did you, if you'd been told that the account was for services would you have told her to put on for goods?---I would have probably if there was, if, if it was specifically for services if there was no account code for that I would have told her, I probably would have suggested that would have been what was needed.

I think what's being put to you is that she, that you told her to, to write on the invoice that the charge was being made for goods when what she was claiming, what the company was claiming for was services.

20 MS SOARS: He told her to write goods received, Commissioner.

THE COMMISSIONER: Goods received?---That was the general term we used whether they were a specific physical good or whether they were a physical service, that's the term that we used to say if the invoice was correct for payment to just note the goods, goods received.

MS SOARS: That was just a shorthand term that was just in the accounts department - - -?---Yes, it was, yes, yes.

30 - - - just so we can be clear, to where goods or services had been received?  
---It, it covered both, yes.

THE COMMISSIONER: Sorry, what was the other thing that, that you said Mr McGee told Ms Lazarus to write?

MS SOARS: It's, it's said that he's, that you said to Ms Lazarus she could, should write the cost centre number and the account code on the invoice and send it through?---I don't recall that.

40 THE COMMISSIONER: Did you, I'm sorry, Ms Soars, is it being said that Mr McGee told her to write the cost centre and the accounts code and told her what they were or it's suggested to her that she should find out what they were and then put them on?

MS SOARS: I was just getting to that point, it's only, it's suggested - - -

THE COMMISSIONER: Well, it's confusing it.

MS SOARS: Well, I'm getting to it. But I was just about to put to him that Ms - you gave Ms Lazarus the account code in respect of these invoices 17040310, do you recall doing that?---No, I don't.

THE COMMISSIONER: Did you know the accounts code?---I would've had to have checked the chart of accounts.

10 Sorry, check the what?---I would've had to have looked at our chart of accounts that lists the account codes. I wouldn't have known that specifically.

So what would you have looked for?---If I was told what the service of goods were I would've had then gone to the chart of accounts and looked for the specific account referring to what was being asked for.

And did you do that?---I don't recollect doing that, no.

20 MS SOARS: And could you have looked up the previous requisitions that you processed for payment which had the account code on them?---I don't recollect doing that but I, I may have, I don't recollect in that circumstance, no.

It's possible though because you could access that information from your computer, is that correct?---Yes, could, yes.

And you could call up the previous requisitions that you had sent for payment?---Yes. Yes.

30 And obtained the account code?---Yes.

And, I mean at this stage - - -

THE COMMISSIONER: Sorry, the cost centre, you said the cost centre as well did you?

MS SOARS: I didn't put to him that he gave her the cost centre number, no.

40 But he told her, what did he tell her?

MS SOARS: Account code, Commissioner.

THE COMMISSIONER: You did mention the cost centre?

MS SOARS: Yes, I mentioned that he said that has to be written on the invoice the cost centre number and the account code.

THE COMMISSIONER: Without giving her the cost centre?---That's not my instructions that he gave her the cost centre.

Did you tell her to, do you recall telling Ms Lazarus to write the cost centre on the requisition?

MS FURNESS: On the invoice.

10 THE COMMISSIONER: On the invoice, I beg your pardon?---I do not, don't recollect telling her to put it on the invoice, no. I would not have had access to, I wouldn't know what the cost centre was either.

MS SOARS: Other than by accessing it through the computer and seeing the previous requisition that had already been processed?---And being advised of the department maybe but generally that was left to the department to provide their cost centre to us.

20 THE COMMISSIONER: Could you find out the cost centre number from previous requisition?---We could've, yes.

And you could've accessed those on your computer?---Yes.

Do you recall doing that?---No, I don't.

30 MS SOARS: And do you recall saying to her in this conversation in July or August 2008 that when you've done with, including those details on the invoice you should fax it through and then ring this number and whoever picks up the phone will send it through?---I don't recollect saying that but that may have been the case. That could've been the case at the time, yes.

Yes. I mean, at this stage you had quite a cooperative relationship with Ms Lazarus, you had assisted her in getting payment of the requisitions and she had your name as a contact point in the accounts department, that's correct isn't it?---Yes. Along with hundreds of other people.

THE COMMISSIONER: Pardon?---Along with hundreds of other people.

MS SOARS: Yes. As you've given evidence.

40 THE COMMISSIONER: How did she get your name as a contact, do you know?---I'm not sure. I was on, on a, the desk that I was on happened to be the - - -

Correct desk?---The desk that she must've rung through to at the time so that's how she got my, came in contact with myself.

MS SOARS: Thank you, Commissioner, I don't have any further questions.

THE COMMISSIONER: Yes. Thank you. Ms Furness?

MS FURNESS: Nothing, thank you.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Nothing further, Commissioner, if Mr McGee could be excused from further attendance.

10 THE COMMISSIONER: Yes. Thank you for your evidence, Mr McGee, you may be excused?---Thank you.

**THE WITNESS EXCUSED**

**[11.14am]**

MR ALEXIS: Commissioner, can I now call Ms Shandy Lee, that's L-E-E. And may I indicate that she, at the relevant times, was working as an administrative officer which includes duties as receptionist at the Royal Hospital for Women.

20 THE COMMISSIONER: Right. Won't you sit down.

MR ALEXIS: Could I indicate that I've only very recently received her statement and for that reason I believe I'll be able to absorb it as I proceed through it.

THE COMMISSIONER: I beg your pardon?

30 MR ALEXIS: I'll be able to absorb it as I proceed through it with Ms Lee. My learned friend I think has only recently received a copy of the statement and it's important that Ms Lee is called now and her evidence it taken because of the position that she holds at the hospital and today I understand is a clinic day.

THE COMMISSIONER: Yes, I understand that.

MR ALEXIS: Thank you, Commissioner.

THE COMMISSIONER: Ms Furness are you appearing?

40 MS FURNES: I appear for Ms Lee.

THE COMMISSIONER: Do you want a section 38?

MR FURNESS: No, thank you.

THE COMMISSIONER: Ms Lee, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS LEE: Oath, please.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Thank you, Commissioner. Madam, is your full name, pardon me, Shandy Josephine Lee?---Yes.

10 And are you currently employed on a full time permanent basis through the New South Wales Health Service to work in the South Eastern Sydney Local Health Network?---Yes.

And we should understand that in particular that has you performing duties as part of your employment as an administrative officer at the Royal Hospital for Women?---Yes.

Thank you. Now in this matter, I've been asked to, request that you speak up if you could so that we can all hear you?---Okay.

20 Now in this matter is it the case that you've provided a written statement of evidence to Commission investigators dated 18 February, 2011?---Yes.

And can I provide you with a copy of your statement and a copy for you, Commissioner. Can you just pardon me one moment, Commissioner. Ms Lee, is it the case that the statement of evidence, a copy of which I've just given to you was signed earlier this morning?---Yes.

30 And so we should understand the date which is typed on the statement just beneath your name and other details was a date upon which this statement was originally drafted. Is that right?---Yes.

So we'll proceed on the basis that your statement is a statement given today?---Yes.

Thank you. Is the content of that statement true and correct, madam?---Yes.

Thank you. Could I tender the statement, Commissioner?

40 THE COMMISSIONER: Yes. The statement of Ms Lee will be Exhibit 74.

**#EXHIBIT 74 - (NOTE STATEMENT SHOULD BE DATED 1 MARCH 2011)**

MR ALEXIS: Thank you. Now Ms Lee, in paragraph 3 you tell us that you have - - -

THE COMMISSIONER: I think that it should be noted that the statement is dated today, should, should be dated today not 18 February, 2011.

MR ALEXIS: Yes, 1 March.

THE COMMISSIONER: 1 March.

MR ALEXIS: 2011. Thank you. Now Ms Lee, you've held the position that we've already described since 3 December, 2007. Is that so?---Yes.

10

And did you work at the Royal Hospital for Women prior to that date or is that the first date upon which you started at that hospital?---It was my first day on 3 December, 2007.

Thank you. Now in paragraph 5 on the second page you set out your primary role and responsibility as an administrative officer. Do you see that?---Yes.

20

And you tell us that in particular you are the receptionist for the outpatient clinic which involves the general administrative duties that you tell us about there including the meeting and managing of outpatients as well as billing responsibilities. Is that so?---Yes.

And does that also should we understand include having something to do with patient lists for the clinics that occur each day?---Yes.

All right. I'll come to some detail. But in paragraph 6 does that accurately set out your working hours and working days?---Yes.

30

And should we understand that that has been the position, that is Monday to Friday, 8.30am to 5.00pm from December 2007 and throughout the 2008 year, is that so?---Yes.

Thank you. Now, paragraph 7 tells about the doctors that regularly work within the outpatient clinic and we see Professor Hacker and the other doctors set out there, is that so?---Yes.

40

And they are supported, are they, by the nurses that you refer to in paragraph 8, Emma Knowland, Zoe Greener and also Ellen Barlow, is that so?---Yes.

And should the Commissioner understand that in relation to the outpatient clinic within that are conducted at various times on various days of the week different clinics, we see one for example referred to as the colposcopy clinic run by Dr Campion?---Yes.

Now, are you stationed at the reception area and in particular at the reception desk that you tell us about in paragraph 10 throughout all of those clinics for all of those doctors?---Yes.

Now, in paragraph 10 you tell us about the location of the reception desk for the outpatients clinic and you refer to the area where patients wait until being invited into one of the consulting rooms by the doctor or the outpatient clinic nurse, do you see that?---Yes.

10 Now, we have a sketch which I'd like to show you and if Ms Lee could be shown Exhibit 12, please. Now, Ms Lee, this sketch doesn't claim to be accurate in any real sense and it's intended to provide a general impression, nothing more, of the relationship between Professor Hacker's office, the outpatient clinic, the consulting rooms within that clinic, the room described as the Lletz room, the waiting room and of course the reception desk, do you see those features in the sketch?---Yes.

20 Now, given what you've told us in paragraph 10 about the reception desk where you were stationed and in paragraph 11 where you say the reception desk looks down the corridor towards the Lletz room, how should we understand from the sketch where your station was when you were tending to your reception duties?---It's just right, it's the right position as though I'm sitting there.

So the words "reception desk" written on Exhibit 12 which is the sketch, does that generally identify the location from which you were working from day to day during 2008?---Yes.

30 Thank you. That exhibit can be returned. Now, perhaps it's convenient just to keep with the order of things in your statement, can we deal firstly with the colposcopy outpatient clinic that was run by Dr Campion and you tell us in paragraph that occurred twice a week on Tuesdays and Wednesdays? ---Yes.

Now, in paragraph 15 you tell us that you are responsible for the preparation of the daily patient list for Dr Campion's clinic, do you see that?---Yes.

40 And the information recorded electronically on your computer system regarding patients is that information recorded by you?---I don't understand.

I'm sorry, let me ask the question again. Do you see in paragraph 15 you say the daily patient list is recorded electronically on my computer system? Do you enter the appointments for patients or is that done by someone else? ---By me.

All right. And that information is updated is it with, whenever a new patient presents with a referral or where a further appointment is required. Is that so?---Yes.

Now can I show you Exhibit 24, please, Ms Lee. Now Ms Lee, you're being shown Exhibit 24 which is headed RHW Appointments and although the heading would suggest that it covers the period from the 1<sup>st</sup> to 30 April, 2008, it only contains a couple of pages from within that period. But does Exhibit 24 tell us what the patient list in relation to the colposcopy clinic looks like that you've just told us about?---That's not exactly like this, but is the same, the date, the times, medical report number, the name and what's the coming reason, the follow up on new, that's all we have.

10

So what you're telling the Commissioner is that the column on the right hand side, which is headed Outcome, is not ordinarily on the patient list that you prepare?---That's right.

Thank you.

THE COMMISSIONER: But do you have the visit type?---We have visit times.

20

Is it type? You see it's T-Y-P-E on this heading. Do you see the heading Ms Lee? If you look at the top of the Exhibit, the top of the page. Well the associate will show you?---This actually, this actually is just, when we are pulling out the file to call the patient for the result, for the registrar to call. Exactly the list for the appointment is not the same like this one.

It doesn't, so that's what I understood you to say, so it has on it, if you look at the, if you have a look at the headings - - -?---Ah hmm.

30

- - - on the top left hand side where it has the visit and the date and the time?---Yes.

And, and there it'll have the MRN?---Yes.

And then the patients name?---Yes.

And what else? Anything else?---Nothing else.

Thank you.

40

MR ALEXIS: Now Ms Lee, do you prepare the patient list for the colposcopy outpatient clinic on Tuesday and Wednesday mornings before the clinic commences?---Yes.

Now having prepared that daily patient list can you tell us how many copies of that list are prepared?---Three.

So does that mean we have an original list and three copies, a total of four or

does it mean that you have one the computer and you print off three?---One in the system, in the computer, three printout.

All right. And what happens to each one of those three?---I have one copy, Dr Campion have one copy, one for the registrar. That's all.

And what happens to the third, I'm sorry?

10 THE COMMISSIONER: No, that is three?---Three.

Oh, is it. You keep one?

THE COMMISSIONER: Yes.

THE WITNESS: I keep one.

MR ALEXIS: All right. I have three, thank you. Now, in relation to the information contained on the list paragraph 17 tells us, and we perhaps may have already covered this in connection with Exhibit 24 but should we  
20 understand that the list that you prepare contains the name of the patient, the patient's medical record number, the reason for the visit and you've exemplified there have you follow-up new visit, result visit, (not transcribable) visit, do you see that?---Yes.

And then you say there's no information regarding the patient's diagnosis or procedure recorded on the patient list?---No.

30 So from the patient list that you prepare and excluding all other knowledge about the patient would someone looking at the list be able to work out just from the list the reason the patient is attending the clinic?---No.

Now, what happens to your copy of the patient list at the end of each clinic day?---I have to give that list after I mark out who attend, who did not attend to the nurse for record.

So that's either - - -?---So I don't hold any - - -

It's either Nurse Barlow or Nurse Knowland is it?---Emma Knowland.

40 Emma Knowland. That's who you give it to?---Yes.

Because she's the nurse for Dr Campion?---Yes.

Thank you. Can I turn attention to the Gynaecological Oncology Outpatient Clinic and is it the case that in 2008 that clinic ran twice a week Tuesdays and Thursdays by Professor Hacker and by Associate Professor Marsden before he retired?---Yes.

Now, in relation to the running of that clinic did you prepare any patient list for either Professor Hacker or Associate Professor Marsden?---No.

And when you were sitting at the reception desk did you nonetheless have a patient list in relation to the clinics that they ran?---I have.

And how did you come by that patient list?---Professor Hacker secretary will give me one list before the clinic start.

- 10 Thank you. And to whom are you referring Professor Hacker's secretary?  
---One for Professor Hacker, one for his registrar, I keep one for me to mark out when the patient attend.

And who provided you with the copy of the patient list in relation to Professor Hacker and Associate Professor Marsden's patients?---In 2008 we just, Helen, I can't remember her last name.

Helen McGilligan?---Yes.

- 20 Thank you. And then after she retired Professor Hacker's new personal assistant continued the same practice of giving you the patient list, is that so?---Yes.

Thank you. Now, can you tell me what the patient list that Helen McGilligan contained in relation to each of the clinics that Professor Hacker and Professor Marsden ran?---Just the patient name, the time and follow-up or new.

And in relation - - -

- 30 THE COMMISSIONER: That's in paragraph 22, Mr Alexis.

MR ALEXIS: Yes. Thank you. And, Ms Lee, from the patient list that Helen provided to you, and again excluding all other knowledge about the patient would you be able to tell from looking at the patient list what it was that the patient attending the clinic was there for?---No.

Now, I think there was a further clinic, namely, the Chemotherapy Outpatient Clinic conducted by a Professor Friedlander, is that so?---Yes.

- 40 And do you deal with your role in relation to patient lists with respect to Professor Friedlander's clinic in paragraphs 24 to 26 of your statement?---Yes.

Thank you. Now, in relation to the patient lists that you had available when you were at the reception desk, did you have a particular practice about where they were on your desk and how you kept them during the course of a

particular clinic day?---Yes. The lists will be with me on my desk and face down.

And why did you keep it face down?---There is confidential and I don't like people looking at the list.

10 All right. Now, have you ever been requested to provide a copy of any outpatient clinic daily patient list by anyone at the hospital that you, you knew to be either a student or a researcher or someone undertaking any clinical trial at the hospital?---No.

Do you ever recall speaking to anyone that you understood to be either a medical student or a researcher or someone undertaking a clinical trial in relation to patients of the outpatient clinic?---No.

In 2008 did you ever hear about a Medex device?---No.

20 And do you recall ever seeing any student or researcher or anyone conducting any consultation with a patient in the outpatient clinic using any device, whether a Medex device or some other device as part of some clinical trial?---No.

Now, in paragraph 33 of your statement, Ms Lee, you tell us that while you're stationed at the reception desk it is not possible that a medical student or a researcher could speak with any centre patients without, about their willingness to participate in a clinical research project or trial within the waiting room without your knowledge, do you see that?---Yes.

30 Now, how is it that can be as clear as you seem to be in that paragraph of your statement that it's not possible that that can happen without your knowledge?---Because I stand up, I pass, I walk around so I can see who is in the waiting room and how many patients so it's impossible if a stranger was sitting there asking questions to the patients.

Now, madam, presumably you take a lunch breach at some stage each day? ---Yes.

40 And what is your normal time for lunch and I should say relevantly in 2008, what time did you take lunch?---Between 12.30 to 1.30.

And to your knowledge did someone take over your duties whilst you were at lunch?---Yes.

And who was that?---Lorraine Britton.

Thank you. Now - - -

THE COMMISSIONER: And so was she there some, some of the time that you were there as well?---We have the turn, we can't leave the desk without attendants.

So how many, how many receptionists are there on a day or how many were there in - - -?---One.

One?---Yes.

10 Now, Ms Lee, in 2008 did you ever meet or were you ever introduced to or did you ever see anyone going by the name of Sandra Lazarus working in or around or anywhere near the outpatient clinic at the Royal Women's Hospital?---Not that I recall.

And with the Commissioner's permission I'll ask Sandra Lazarus to stand up, could you stand up, please, Ms Lazarus. Now, if you could just look at the woman who's just stood on my invitation, Ms Lee, do you recognise Ms Lazarus as someone that you saw at any time in the 2008 year at the Royal Hospital for Women?---No.

20

MR ALEXIS: No. Thank you. Thank you, Ms Lazarus. Now can I show you please the original ID security card with the name Jessica Lazarus on it. And I'd ask you to look at the photograph on that card, please. And Commissioner, can I note that Ms Jessica Lazarus is not in the hearing room and as I understand it is not here today. But could you just study the photograph and we can provide a larger version of that photograph if it assists. But do you remember seeing Jessica Lazarus anywhere around the outpatient clinic of the Royal Hospital for Women in the 2008 year?---I don't remember, no, I don't recall.

30

All right. Thank you. That can be returned. Now Ms Lee, I just want to take up with you a couple of aspects of some evidence that has been given in this inquiry. Could you listen to what I suggest to you and if you need me to repeat anything please let me know. Okay. And Commissioner, I'm starting at page 339 of the transcript from line 5 and then I'll be going to page 342.

THE COMMISSIONER: Thank you.

40 MR ALEXIS: And Ms Lee, in 2008 were you aware of a patient list referred to or generally understood as the general list for the outpatient clinic at the hospital?---No.

There was either the list for Dr Champion, there was the list for Professor Hacker and Professor Marsden and there was the third list you've told us about from Professor Friedlander. Is that so?---Yes.

There was no general list as such. Is that how we should understand it?

---(NO AUDIBLE REPLY)

I'm sorry you'll need to answer. There was no general list as you understood?---That's right.

Now it's been suggested in this inquiry, Ms Lee, that the patient list that was available at the outpatient clinic contained information concerning the patients name and I'm at 343, Commissioner, from line 10.

10 THE COMMISSIONER: Thank you.

MR ALEXIS: I'm sorry, let me start at 342 at line 25. It's been suggested in this inquiry Mr Lee, that the patient list was available from the reception desk at the outpatient clinic and that Ms Lazarus approached a receptionist and said, can I please have today's patient list? And that in response to that the patient list was handed to her. What do you say to that suggestion?  
---Never happen.

20 Now it's been suggested also that after obtaining the list Ms Lazarus walked up to the patient, said hi, we're just conducting some, some clinical trials. She had a number of pages in her hand through which she spoke to the patient about and she said to the patient that the clinical trial involves patients with abnormal pap smears. What do you say to that suggestion?  
---No.

You never saw that happen?---Never.

30 And it's suggested that Ms Lazarus had a room on the other side where there was a storage area or a storeroom, a room that's always free and that was used by Ms Lazarus to take patients into for the purpose of conducting her trial. What do you say to that suggestion? Did you ever see that?---No.

Now in relation to the patient list, 343 line 10 and following, it's suggested that the patient list contained information as follows and let me just step you through each particular, the patient's name, the date of birth and I gather you would agree with that so far?---No.

THE COMMISSIONER: No?

40 MR ALEXIS: The patient's name?---The patient name yes, not date of birth.

Thank you. And it's also suggested that it contained some personal details like the patient's address?---No.

It's also suggested that the patient list contained some detail concerning results that were available, sometimes for example there's a reference to

radiology film, general information about the patient on the side of the patient list, what do you say to that suggestion?---No.

And it's been suggested that from the patient list she, that is Ms Lazarus, could determine what the patient was coming in for and by way of example it was suggested that one could determine from the patient list that the patient was there for a, for a FN, that is to say a fine needle procedure or a biopsy procedure, what, what do you say to that?---No.

10 THE COMMISSIONER: Mr Alexis, if you need any longer, before you move on to that it does occur to me that the evidence at 342 lines 3 to 12 should be clarified.

MR ALEXIS: Thank you. Yes, thank you.

Now, Ms Lee, in 2008 you've told us that Ms Britton, that's Lorraine Britton relieved you during the lunch hour that you took?---Morning tea, lunch hours.

20 Apart from Ms Britton and yourself, were there any other receptionists working in or adjacent to the outpatient clinic at the Royal Hospital for Women?---My department, no.

Just you and Ms Britton and that's all?---Yes.

THE COMMISSIONER: Sorry, where, did Ms Britton, was Ms Britton there while you were there?---Yes.

30 All the time you were there she was there too?---She was part-time, Tuesday, Wednesday and Thursday.

And she covers for you when you go on, you go on lunch and morning tea? ---On holiday or sick.

MR ALEXIS: Thank you, Ms Lee?---Thank you.

THE COMMISSIONER: I take it you want an adjournment, Ms Soars?

40 MS SOARS: Well, Commissioner, it was handed to my instructing solicitor at 10.50am and I was dealing with Mr McGee and I haven't had a chance to anticipate it so I do.

THE COMMISSIONER: This evidence should have been realised that it was on the cards for days.

MS SOARS: The specifics of it I couldn't anticipate, Commissioner, and I don't understand why it was, the draft was dated the 18<sup>th</sup> and we got it today.

THE COMMISSIONER: Nor do I.

MS SOARS: The matter which I - - -

THE COMMISSIONER: I think that there was a delay that had nothing to do with the Commission.

10 MS SOARS: As, as the Commission pleases so I think to be fair to my client I'll need at least 15 minutes.

THE COMMISSIONER: Yes, you can have 15 minutes.

**SHORT ADJOURNMENT**

**[11.49am]**

20 MS SOARS: Ms Lee, my name is Julie Soars and I'm a barrister for Sandra Lazarus. I'll be asking you questions. Ms Lee, do you have a good memory?---Yes.

Yes. And it's your evidence is it that you've never seen my client, Sandra Lazarus, who was identified to you in court in the Commission?---That's right.

Never, you've never met her, never seen her once?---Not that I remember.

30 And if I suggest to you that in late 2007 or early 2008 in the company of Emma Knowland that you met my client, Sandra Lazarus and she was introduced as Neville Hacker's research student who would be getting some patients from here. Does that jog your memory?---Not that I recall.

And does the fact that Ms Lazarus would have a security ID badge which, which show Royal Hospital for Women, is it the fact that you take notice of who's coming and going from the waiting room who's wearing Royal Hospital for Women security badges during 2008?

MR ALEXIS: I think I need to object to that question.

40 MS FURNESS: Definitely, there's a number of them.

THE COMMISSIONER: Well what is the objection?

MR ALEXIS: Well the question (not transcribable) I think.

THE COMMISSIONER: All right.

MR ALEXIS: Yes, we started with a reference to an ID badge and - - -

THE COMMISSIONER: All right. Start again.

MS SOARS: Thank you, Commissioner. Do you take notice of who's entering the waiting room who is, if that person is wearing a Royal Hospital for Women security ID or access code badge?---Yes.

You do?---If they show me, yes.

10 But for example if you saw someone walking around the waiting room of the outpatients clinic who had a security or access badge that they were wearing for the Royal Hospital for Women, for example, would you challenge that person and ask them what they were doing there?---In my department yes I will.

If you didn't know them?---It doesn't matter, I'll - - -

20 Or if you, and what if you'd been introduced to them before would you take any notice of them or just, you'd already have met them and so you wouldn't feel a need to ask who they were. Is that correct?

MS FURNESS: Your Honour, I had trouble following that question.

THE COMMISSIONER: Yes. Just put the question again.

MS SOARS: Once you've met someone it's your evidence is it that you would store that meeting away and you wouldn't need to ask them again what they were doing in the waiting room, for example?

30 MS FURNESS: I object.

THE COMMISSIONER: That's not her evidence.

MS SOARS: I'll go somewhere else and maybe come back to that. Thank you, Commissioner. Evidence has been given to this Commission and the reference is at 396 line 25 that Ms Sandra Lazarus saw three patients in 2008 taken from or in adjacent to the waiting rooms?---Not that I recall.

40 But you accept that it's possible that she could have seen patients and that you're not recalling that's the case?---No.

You don't accept that it's possible at all?---(NO AUDIBLE REPLY)

MS FURNESS: I don't think the witnesses answer was recorded, Commissioner.

MS SOARS: Could you repeat your answer, please to that last question?---I don't recall that.

And it's correct isn't it that at the reception desk where you sat there were two administration assistants, Oonah Brady and Lorraine Britton who you've spoken about? Is that correct?---Only Lorraine not Oonah Brady.

So the suggestion that Oonah Brady sat at the reception desk is incorrect? ---She left long before I came.

So is it your evidence that she didn't sit there in 2008?---No.

10

I assume Ms Lee, that in the course of your duties you see and meet a number of people. Is that correct?---Yes.

I mean everyday you have how many patients coming through the outpatient clinic?---Different with clinic, Dr Campion's.

We'll go through them, there's three I think. If you could deal with each one. How many would you see in Dr Campion's clinic generally?

20 ---Tuesday morning is around 12 until lunchtime, is about maybe eight in the afternoon.

And Professor Hacker's and Professor Marsden's clinic?---Professor Hacker, Professor Hacker only afternoon, clinic is about maybe 10.

And Professor Friedlander you mentioned?---Professor Friedlander does Monday morning is about maximum for chemotherapy is about 10. And the follow up is about six to seven, including new patients.

30 And there's a number of staff at the Royal Hospital for Women who come and go through the, past your desk through the waiting room and into the various consulting rooms I take it. Is that correct, everyday?---Yes.

And is your evidence that you take notice of each and every staff member who walks down the corridor?---Yes. Yes, I know all the people who were being in my department.

40 But for example, if you've been introduced to someone you wouldn't take, you wouldn't for example consider them to be a stranger if you'd been told that they were entitled to be there and to see patients?---I would be informed beforehand then it's - - -

If you'd been informed beforehand then you would accept that person as being entitled to be there. That's correct isn't it?---Yes.

And I'm suggesting to you Ms Lee, that my client, Sandra Lazarus, did interview a number of patients in the waiting room of the outpatients clinic during 2008?---I don't recall that.

And is it the case that you don't recall or you have a clear recollection that it didn't occur?---No, I don't recall that.

You don't recall that?---'Cause the researcher is not my, my department.

No, that's - - -

THE COMMISSIONER: Did you see anybody?---No.

10 You didn't, you did not see anybody, any - - -?---Doing research in the waiting room, no.

MS SOARS: You don't recall that?---No.

Did you take holidays in 2008?---I can't remember.

You get four weeks' annual leave a year, is that correct?---It doesn't mean I take every year.

20 I'm just starting with that question and then - - -?---No, I don't remember.

You don't remember when you took holidays or if you took them in 2008? ---That's right.

Ms Lee, I'm suggesting to you that on at least one occasion you handed the patient list to my client Sandra Lazarus to be copied, that's correct, isn't it? ---No.

30 And on other occasions you allowed her to take the copy away and photocopy it, that's correct, isn't it?---No.

And is it the case that you have a clear recollection that that didn't occur or - - -?---I don't do that.

I beg your pardon?---I don't.

THE COMMISSIONER: She said I don't do that.

40 MS SOARS: How would you have treated someone in 2008 if they'd been introduced to you as Neville Hacker's research student who was going to be getting some patients from the clinic?

THE COMMISSIONER: That's too vague?---I don't believe - - -

Just a moment, that's too vague. How do you treat them? I'm not sure what that means.

MS SOARS: I'll ask it again, Commissioner.

If you been informed that someone was Neville Hacker's research student who was going to be getting some patients from the clinic would you have felt that you could give them the patient list if they requested it?---No.

You wouldn't have thought it was unusual if they spoke to some patients in the waiting room, would you?---That's unusual, yes.

10 Even if they're Neville Hacker's research student who's going to be getting some patients from the clinic?---That's right, it's unusual.

Ms Lee, I'm putting to you that my client did obtain patients from the waiting room and took them down I think into the Lletz room and conducted some clinical trials on them in relation to the Medex device. You can't say whether that occurred or not in 2008, can you?---I said no.

THE COMMISSIONER: You mean no, you said no meaning - - -?  
---Meaning it never happens.

20 MS SOARS: But the best evidence you can give is that you never saw any, my client going into the Lletz room with anyone, is that correct?

THE COMMISSIONER: Best evidence?

MS SOARS: Did you answer that, I'm sorry, Commissioner, do you want me to withdraw the question?

THE COMMISSIONER: I'm not sure if it's fair, Ms Soars. You can put it in a different way.

30 MS SOARS: Thank you, Commissioner.

The only matter within your knowledge is whether you saw my client Ms Lazarus go into the Lletz room with any patient, that's correct, isn't it?

THE COMMISSIONER: That's not, sorry, it's too general. I mean the only, you can't say that's the only thing she knows, she knows many other things. You actually have to define the question with, with greater particularity, with greater limits and detail.

40 I mean, did you, you, Ms Lee, you, did you, is it possible that Ms Lazarus walked past your desk with a patient into the Lletz room - - -?---No.

- - - in 2008? And you say now because?---Not possible.

Because you, because?---Because the Lletz room is not for the researcher.

But would you have seen the person?---No.

I'm sorry, would you have, sitting where you sit - - -?---Yes.

- - - if Ms Lazarus had, firstly, if sitting where you sit - - -?---Yeah.

- - - if Ms Lazarus had gone to talk to patients in the waiting room would you have seen that?---Yes.

10 If she would've then stood up with a patient and walked with the patient into the other area near the Lletz Room would you have seen that?---Of course, yes.

And did you ever see her do any of those things?---No.

MS SOARS: I have no further questions, Commissioner.

THE COMMISSIONER: Yes, thank you. Ms Furness.

MS FURNESS: Nothing thank you, Commissioner.

20

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Nothing further thank you, Commissioner. If Ms Lee can be excused.

THE COMMISSIONER: Ms Lee, thank you for your evidence, you're free to go?---Thank you.

30 **THE WITNESS EXCUSED**

**[12.20pm]**

MR ALEXIS: She's needed back at the hospital I'm told, Commissioner. Could I now call Lorraine Doreen Britton, that's B-R-I-T-T-O-N.

THE COMMISSIONER: Won't you be seated, Ms Britton. Ms Furness, you appear?

MS FURNESS: I do.

40

THE COMMISSIONER: Do you want a section 38 order?

MS FURNESS: (not transcribable).

THE COMMISSIONER: Would you be seated, Ms Britton. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS BRITTON: Under oath.

THE COMMISSIONER: Would you swear Ms Britton in please.

MR ALEXIS: Thank you, Commissioner. Madam, is your full name Lorraine Doreen Britton?---That's correct.

And are you currently employed through the New South Wales Health Service on a part-time basis by the South Eastern Sydney Local Health Network?---I am.

10

And that was formally part of the South Eastern Sydney and Illawarra Area Health Service?---Yeah.

And did that employment have you working as an administrative assistant within the Gynaecological Cancer Centre at the Royal Hospital for Women?---That's correct.

And the role that you currently perform is the role in that centre that you performed back in 2008, is that so?---That's right.

20

And the Commissioner should understand that you have over some 27 years undertaken similar roles to that which you attended to at the clinic in 2008? ---Yes, that is correct.

Now, is it the case that you have provided to the Commission a written statement of evidence?---I have.

I'll show you this please and may I provide you with a copy, Commissioner. And, Ms Britton, is it the case that you came to sign that statement earlier this morning?---Yes, I did.

30

And should we understand that although the statement was prepared in draft back on about 18 February, you see the date in the middle of the first page, it's a statement that you've actually provided by signing it today?---Today, yes, because I hadn't been at work on Friday.

Yes. And, Commissioner, can I just indicate because I regard it as appropriate that I do so that the process of obtaining the statements from the receptionists at the Royal Hospital for Women has been one attended with some logistical difficulties the detail of which has been explained to me and I am satisfied in those circumstances that those attending to the procuring of these statements have used their best endeavours to get them completed as soon as possible.

40

THE COMMISSIONER: Yes, thank you. Well, I accept that.

MR ALEXIS: Thank you, Commissioner.

MS FURNESS: Might I just indicate that the witness might need her glasses.

THE WITNESS: Yeah, thank you.

MR ALEXIS: Ms Furness forever helpful, Commissioner. Now, Ms Britton, should we understand that by signing the statement this morning the content of it is true and correct to the best of your ability?---Yes, that's correct.

10

Thank you. Commissioner, can I tender the statement of Ms Britton.

THE COMMISSIONER: Yes. Ms Britton's statement is Exhibit 75 and should be dated 1 March, 2011.

**#EXHIBIT 75 - STATEMENT OF MS BRITTON (NOTE  
STATEMENT SHOULD BE DATED 1 MARCH 2011)**

20

MR ALEXIS: Thank you. Now, can I just touch on a couple of aspects of your statement, Ms Britton. In paragraph 5 you tell us that your office at the centre is a small one located directly adjacent to and with the direct line of sight of the reception desk which is occupied by Ms Lee, do you see that? ---That's correct.

And does the office have a door?---It does have a door but it's always left open.

30

And so from the office and from the position where you sit in that office you have the direct line of sight that you refer to, is that so?---That's correct.

And in relation to the reception duties of Ms Lee do you have a role to play in that respect in circumstances where Ms Lee is having a break, whether it be morning tea or lunch or is otherwise not there?---Yes, I'm always there on the day, the three days I work and I cover the morning tea break and lunch break. I don't go to lunch. I have a quick break at my desk.

40

Right. And in relation to the time when you occupy the reception desk do you have under your control any patient lists for the particular clinics operating on those days?---Yes, I do.

And what do you do in relation to the patients lists whilst you're at the reception desk?---I follow the same procedure as Shandy by booking in the patients and, and just covering in that time I'm there and of course if it's really busy I help out.

All right. Now, have you ever provided a copy of a patient list and let's leave to one side for the moment in respect of which clinic, but with any clinic running out of the outpatient clinic, have you ever provided a patient list to a research student or a researcher or a medical student or someone conducting a clinical trial - - -?---No, never.

- - - at the hospital in the 2008 year?---No, I have never done that because normally if it's a clinical trial or a researcher the nurse would attend to that or they'd be, yeah, most times.

10

Have you ever seen any research student or medical student or anyone conducting a clinical trial conversing with patients in the waiting area? ---No, I haven't, it would be very unethical if that ever happened and I would speak to somebody in regards that happening, particularly in the cancer centre, it's not very ethical to have people in waiting rooms asking them questions. It just doesn't happen. It hasn't happened since I've been there. It does not happen.

20

Now, in relation to the patient lists for the colposcopy clinic or the gynaecological oncology clinic or the particular clinic conducted by Professor Friedlander, is there any information on the patient lists for those clinics which would provide anyone looking at the list with information as to why it was that the patient was attending the clinic?---No, none, none whatsoever.

30

All right. Now, with the Commissioner's permission I'd ask Ms Sandra Lazarus to stand up, please, thank you, Ms Lazarus and, Ms Britton, are you able to tell us whether or not you've seen Ms Lazarus at any time whilst you were at the outpatient clinic attending to your duties, whether you've ever seen her in and around the outpatient clinic?---No, I can honestly say I haven't.

All right?---I haven't, no.

Thank you.

THE COMMISSIONER: Thank you, Ms Lazarus.

40

MR ALEXIS: Thank you, Ms Lazarus, and can I provide you with an original identification card for Ms Jessica Lazarus, if you could look at the photograph on that card, if you'd be assisted by an enlarged colour photocopy of the photograph I can provide that to you, but are you able to tell me whether you've ever seen the person identified in that photograph as Jessica Lazarus in and around the outpatient clinic waiting area, whether looking at a patient list or speaking to a patient at any time during the 2008 year?---No, I haven't seen this person before.

All right. Thank you, Ms Britton.

THE COMMISSIONER: Ms Soars, do you need an adjournment?

MS SOARS: I'm in the same position, Commissioner, I haven't even read it before the witness came into the box.

THE COMMISSIONER: Yes. All right. We'll adjourn.

**SHORT ADJOURNMENT**

**[12.29pm]**

10

MR ALEXIS: Commissioner, there's just one other matter which I've discussed with my learned friend, which I ask Ms Britton before I sit down. Madam, just to ensure that we have clear the days of the week that you worked during the 2008 year, they are Tuesdays, Wednesdays and Thursdays. Is that so?---That's correct.

20

And each of those days were a full day apart from I think Wednesday, when you worked until 3.45?---That's correct.

And also Tuesday?---Mmm.

Now were those three days the days upon which all of the various clinics were conducted at the outpatient centre at Royal Hospital for Women - - -? ---That's right.

30

- - - apart from Professor Friedlander's chemotherapy clinic which operated on a Monday?---Monday morning, yep.

So the days that you worked were the days upon which Professor Hacker and Associate Professor Marsden conducted their clinics?---That's correct.

Yes, thank you very much.

THE COMMISSIONER: Ms Soars.

40

MS SOARS: Ms Britton, my name is Julie Soars and I'm a barrister for Sandra Lazarus and I'll be asking you some questions. Just firstly, prior to signing your statement have you discussed its contents with anyone?---No, no I haven't.

Not with Ms Lee?---No.

And just to confirm is it your evidence that you never saw my client with any patients of the gynae-oncology clinics at the Royal Hospital for Women in 2008?---That's correct.

And Ms Britton, evidence has been given to this Commission and the reference is at 247 line 20 and in other places, that at least three patients were referred to my client for testing. Do you accept it's possible that my client would have taken some patients in for testing down the corridor into the Lletz room or into other spare consulting rooms in 2008?

MS FURNESS: I object. The evidence is not as my friend stated it. There is no evidence that at least three patients were tested.

10 THE COMMISSIONER: What was the passage you were referring to?

AMS SOARS: Well - - -

THE COMMISSIONER: 257 did you say?

MS SOARS: Well there's that and I think at 245, 30, the estimate is three. But I'll rephrase the question. Ms Britton, evidence has been given to the Commission and this time I'm referring to the passage at 245 line 30 that an estimate of three patients were referred to Ms Lazarus - - -

20

MS FURNESS: Well, I object.

MS SOARS: - - - for her clinical trial in 2008.

MS FURNESS: I object, that's not the evidence. The evidence is that three patient's names were provided, that's quite a different matter from patients being referred. Well, I'm also relying on the - - -

30

THE COMMISSIONER: I think at line 42.

MS SOARS: At page 257 line 20 if I can take my learned friend to that (not transcribable) objection.

THE COMMISSIONER: I'm sorry, I didn't hear.

MS SOARS: I'm relying also on the passage at page 257 line 20 and following. The word "referred" was used.

40

MS FURNESS: Well, the word was used in the question certainly.

MS SOARS: And the answer was, "That's correct."

THE COMMISSIONER: There was a whole lot of questions put I'm afraid.

MS FURNESS: That's not the evidence at all. The evidence was, that's correct as in response to your question in relation to testing .

THE COMMISSIONER: "In respect of some there may have been some testing, that's correct."

MS SOARS: Well, I'll get it right, Commissioner. Ms Britton, evidence has been given that the names of three patients were given to my client potentially for testing in 2008 and my client, I'm putting to you that my client in fact did test patients in 2008 - - -

10 THE COMMISSIONER: No, you have to put, you have to put the questions separately. Put the first part and then the second part. The first part is, Ms Britton, there was a witness who said that names were provided to Ms Lazarus or she agreed that names were provided to Ms Lazarus in relation to the clinical trial over two occasions. Do you have any knowledge of this?---No, I don't.

Could this have happened without your knowledge?---Well, no, no, no, not, no.

20 Well, you weren't there everyday were you?---No, I wasn't.

And you weren't there all the time?---But in regards to you asked me about a trial and then you asked me about treatment, I wouldn't - - -

30 No, I asked you whether you are able to say whether three, that about three patient's names were provided to Ms Lazarus in relation to clinical trials over two occasions that she attended at the clinic and you don't know anything about that, that was your reply. And I asked you whether you can categorically say that that didn't occur?---I can say that wouldn't have occurred because I haven't met this woman in my life there working so - - -

I understand that but the, is it not true to say that you weren't there throughout the time the clinic was open each week?---That's true, I wasn't there, I don't work Mondays and - - -

So it's possible that if it happened on a Monday it might've happened without your knowledge?---It's possible.

40 MS FURNESS: Commissioner, I rise because your questions were about the referral of patients without any specificity as to by whom and I suspect that this witness is thinking about herself having a role.

THE COMMISSIONER: Yes, that's fair enough. I accept that.

MR ALEXIS: The other matter, if I may, is to provide this additional comment, is the identification of patient's evidence in my submission is crystal clear that the medical practitioners that were identified as having the patients that were said to be the ones that remain available to Professor Hacker and Associate Professor Marsden (not transcribable).

THE COMMISSIONER: Ms Soars, I'm trying to help you but I've been crushed so I'm going to leave you on your own.

MS SOARS: (not transcribable), Commissioner.

THE COMMISSIONER: You, you should ask whatever questions you think appropriate.

10 MS SOARS: Thank you.

Just to be clear, you never saw my, if your evidence is is that you never saw my client with any patients in August, August or September 2008?---That's correct.

In or adjacent to the waiting room of the outpatient clinic?---Yes. No, I never saw.

20 And it's your evidence, is it, that you never saw my, my client take any patients into any consulting rooms or into the Lletz room in August or September 2008?---No, I didn't.

I'm putting to you that it's entirely possible, isn't it, that my client did interview patients in the waiting room of the clinics at the Royal Hospital for Women in 2008?---It's impossible because nobody gets spoken to in a consultation point of view in a waiting room, particularly there, we're most careful about that. It's very unethical to even go up to and approach a person, particularly with the cancer.

30 It's, it's correct - - -?---So it doesn't happen.

It's correct isn't it the patient list would identify whether a patient was new or not?---Yes.

It is. And is, are you aware whether any assumption is made as to whether if it's a new patient there's someone presenting with an abnormal pap smear?

40 THE COMMISSIONER: Sorry?---No - - -

I, I think you'll have to put that question again, I don't understand it?

MS SOARS: Are you aware whether there's a possibility that someone presenting as a new patient is someone who's presenting with an abnormal pap smear test result?---That would depend entirely on which doctor they were seeing on that day.

And which doctors would you expect to have such patients presenting?

---We would expect Dr. Campion to have patients with that because that's what he deals in.

Yes. And I'm putting to you, Ms. Britton, that my client did take a number of patients during the 2008 period from the waiting room through into either the Lletz room or other consulting rooms and conducted clinical trials on them using the Medex device, that's correct, isn't it?---No, it's not.

10 What do you base that on?---As I said, no researcher or student in all the time that I've been there goes and takes a patient from the waiting room, it's always a nurse or the doctor. Dr. Campion goes out and gets his own patients. Half the time Professor Hacker does. It is never a student or a researcher that goes and gets a patient. It's just not on. In all the time I've been there it has never happened. It's either the nurse or the doctor.

20 And if a nurse working with Professor Hacker took a patient from the waiting room and then either gave their name to Ms. Lazarus or referred them to Ms. Lazarus you wouldn't have necessarily known about that, would you?---That's correct, I wouldn't have, if they're away from the department.

And you wouldn't have necessarily known about whether Ms. Lazarus saw such a patient in a consulting room or in the Lletz room?

THE COMMISSIONER: You're putting the scenario that the nurse - - -

MS SOARS: Yes.

THE COMMISSIONER: - - - takes the patient out of the - - -

30 MS SOARS: Waiting room.

THE COMMISSIONER: - - - waiting room into the Lletz room or another consulting room.

MS SOARS: Yes, Commissioner.

Would you like me to repeat that again?---Yes, please.

40 You wouldn't necessarily be aware if the nurse selected the patient from the waiting room and took them into the Lletz room or the consulting room and my client then conducted a clinical trial on such a patient in 2008, would you?---Possibly not but then we're, we're a tight-knit unit where we are and we would, we're always introduced to everybody on any occasion and I, I have not met this researcher, the person that you're talking about.

Well, is it, just so that I understand this, is it, could, could the researcher, this hypothetical researcher who the nurse takes the patient out to give to the researcher to carry, to carry out the tests, could the researcher have been in

the Lletz room or the consulting room without passing your station?---Yeah, that's possible, possible, yeah but you're, you're implying they're seen in the waiting room which has never happened.

I've asked a number of questions - - -?---Mmm. Mmm.

- - - in different respects. Thank you, Ms Britton. I have no further questions, Commissioner.

10 THE COMMISSIONER: Ms Furness.

MS FURNESS: No thank you, Commissioner.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Nothing further for Ms Britton.

THE COMMISSIONER: Yes, thank you for your evidence, Ms Britton. You may be excused.

20

**THE WITNESS EXCUSED**

**[12.55pm]**

MR ALEXIS: Thank you, Commissioner. Commissioner, I understand that we have available a number of nurse managers and consultants from the Royal North Shore Hospital. I'm not entirely clear whether or not the content of their statements is controversial, but we've nonetheless taken precaution of having them here. What I propose to do is to perhaps identify each witness, tender the statement and perhaps my learned friend could indicate whether she wishes to ask them any questions, in which case they can be dealt with. If not then obviously they can be excused.

30

THE COMMISSIONER: So have you seen the statements Ms Soars?

MS SOARS: I won't know until my learned friend identifies who he's talking about, Commissioner.

THE COMMISSIONER: But you've been given a number of statements.

40

MS SOARS: I've been given some.

MR ALEXIS: So could I provide to you Commissioner a statement of Jennifer Margaret Gage, that's G-A-G-E. Ms Gage is a nurse manager of the outpatient department and what's called the transit lounge at the Royal North Shore Hospital. And her particular area of interest in so far as this

inquiry is concerned is that she deals with amongst others, the urology clinic. And you'll see that Commissioner referred to in paragraph 6. Ms Gage refers in paragraph 7 to the manual system to book a patient for these clinics and some detail concerning the form of the list and the like. In paragraph 8 you'll see Commissioner, that the urology clinic, and this of course has some relationship to the evidence the Commission heard in relation to patients of Dr Vaux. But she says there that the urology clinic operates on Thursday, each Thursday morning and some further detail about the urology consultants that attend there. And then in the remaining part of her statement she deals with Ms Lazarus and her sisters. So as I say Ms Gage is available - - -

THE COMMISSIONER: Yes.

MR ALEXIS: - - - if my learned friend wishes to ask her some questions. But otherwise I'd be content to simply tender her statement.

THE COMMISSIONER: Yes. Ms Soars, there'll be no inference drawn if you don't ask any questions, if the only purpose of your asking the questions is to put the kind of questions that you put to the last witness, is namely that your client did carry out the tests and that's all.

MS SOARS: Yes. Yes.

THE COMMISSIONER: And I understand that's your case and we all know that that's your case.

MS SOARS: Yes.

THE COMMISSIONER: So, but I mean there may be other material in the, in there that you want to challenge or some specific incident with the person's concerned if you, there would be considerable point in doing that if those are your, if you wish to do that. I'm just, and this is just by way of explanation to you of what my attitude would be, that is that as long as you indicate that you persist in your case that your client did whatever she did it's really not worth everybody's time and just going through the mechanics of putting the same questions to the witness.

MS SOARS: Thank you, Commissioner. My instructions remain the same and in respect of Ms Gage, I do have a few questions.

THE COMMISSIONER: All right. Well, it's now 1 o'clock, Mr Alexis. What is the position? I don't really, it's quite, I see a lot of ladies sitting in the back of the hearing room and I assume that there is no point in going through now until 2 o'clock or - - -

MR ALEXIS: There may be some utility. If I could just squeeze another minute or two to identify the balance of the statements.

THE COMMISSIONER: Yes.

MR ALEXIS: At least our learned friend might be able to indicate whether or not they - - -

THE COMMISSIONER: Well Ms Gage is going to be required, required for - - -

10 MR ALEXIS: Yes, we understand that. The next statement is that of Ms Jayne Maidens, that's spelt M-A-I-D-E-N-S. Can I provide you  
Commissioner, with a copy of her statement. Nurse Maidens works in the  
gynaecological oncology clinic at the Royal North Shore Hospital. You'll  
see that in paragraph 3. And she deals of course with outpatients, patients  
undergoing chemotherapy and radiotherapy. And as she says at the end of  
paragraph 3, basically I see anybody with gynaecological cancer at the  
hospital. And her evidence in short is that, having regard to her position,  
she would have expected to see and she hasn't seen either Ms Sandra  
Lazarus or her sisters. And I'd be tendering her statement unless of course  
20 she is required for cross examination as well.

THE COMMISSIONER: Ms Soars.

MS SOARS: Commissioner, I did indicate to my learned friend and I can indicate again I don't need to ask any questions.

MR ALEXIS: All right. Well, that's very helpful, thank you. Well, can I perhaps tender Ms Maidens' statement?

30 THE COMMISSIONER: Yes. Ms Maidens' statement will be Exhibit 76.

#### **#EXHIBIT 76 - STATEMENT OF MS MAIDENS**

MR ALEXIS: Thank you. And Ms Maidens (not transcribable). The next statement is that of Joanna Yetsanga and I hope I've pronounced that correctly. And can I hand a copy of her statement to you, Commissioner.  
Now, Ms Yetsanga is a Midwifery Unit Manager and she like Nurse  
40 Maidens works as part of her duties in various clinics including the one providing colposcopy services conducted within the outpatient area at Royal North Shore. You'll get that at paragraph 3. She deals with patient lists in respect of that clinic. She similarly having regard to her position would expect to have seen Ms Lazarus if she was conducting any clinical trials involving patients of those clinics and in paragraph 8 you'll see that she says that she has never seen either Ms Sandra Lazarus or her sisters ever before. So her evidence is in the same category as that of Nurse Maidens and I can tender her statement now unless she's required for cross-examination.

MS SOARS: Commissioner, this statement was received as the hearing was proceeding, I haven't had a chance to get instructions, I expect it may be the same position but I do need to get instructions.

THE COMMISSIONER: Well, if you don't mind looking at the statement immediately after we adjourn and telling Mr Alexis as soon as possible of what your attitude is so that Ms Yetsanga may, if you don't require her to attend she can leave immediately.

10

MS SOARS: I will do that, Commissioner.

THE COMMISSIONER: Yes, thank you.

MR ALEXIS: Thank you. Could I then just provide the Commission with a copy of a statement of Ratana Oum spelt O-U-M. Again I hope I've pronounced that correctly. Commissioner, Ms Oum was and is the Medical Secretary for relevantly Dr Nick Pavlakis from whom the Commission has heard evidence concerning the execution of vouchers. She, in paragraph 3  
20 you'll see has worked for Dr Pavlakis for more than seven years and she says in paragraph 5 that she has never seen either Sandra Lazarus or Michelle Lazarus, I'm not sure that there's any suggestion that Jessica Lazarus is involved at North Shore but nonetheless she gives evidence that she's never seen any of them before and that's the report of her evidence and I'm not sure whether she's required for cross-examination but if not I'd be minded to simply tender her statement.

THE COMMISSIONER: Ms Soars.

30 MS SOARS: Commissioner, there is a contest between her evidence and my client's evidence and there are some matters I'd like to put to her.

THE COMMISSIONER: All right. Ms Oum will be required to give evidence.

MR ALEXIS: Thank you. We'll come back to her. Can I then come to the statement of Andrea Maryanne Dibbs. I can provide you with a copy of her statement. She was relevantly working for Dr Sywak that the Commission heard evidence from last Friday afternoon. She gives evidence to the effect  
40 that she recognises the photograph that she was provided with of Sandra Lazarus, she refers to some, the occasion in mid-January 2009 in paragraph 5 where she received a phone call seeking an urgent appointment on the basis that Dr Pavlakis was on annual leave. She refers to Ms Lazarus attending Dr Sywak's office. There's some detail concerning the issue of a computer and she refers in paragraph 7 to giving Ms Lazarus access to the computer and she heard the printer working and then shortly after that Ms Lazarus and Dr Sywak had a conversation in his office. I'm not sure whether in light of the content of that statement my learned friend wants to

cross-examine Ms Dibbs. For what it's worth the occasion that she adverts to seems to be reasonably consistent with Sandra Lazarus' version of what occurred in relation to this particular occasion in January 2009 but of course it's a matter for my learned friend so perhaps we could have an indication about Ms Dibbs.

THE COMMISSIONER: Yes, Ms Soars.

10 MS SOARS: Commissioner, there are some inconsistencies but given the comment you made that no, nothing will be taken if I don't put matters to the witness then I - - -

THE COMMISSIONER: Well, what I said was that if you're, if, if the cross-examination is simply that you contend that contrary to the witness' evidence your client was there and took patients out of the waiting room and, and went to, and then carried out the tests then that's taken as a given.

MS SOARS: Thank you, Commissioner.

20 THE COMMISSIONER: But if you, if you are talking about other matters that's not covered by what I'm saying.

MS SOARS: I think I need to say I, I require Ms Dibbs.

THE COMMISSIONER: Very well.

MR ALEXIS: All right. Well, it looks like most of the witnesses will be required this afternoon.

30 THE COMMISSIONER: Will we be finished this afternoon?

MR ALEXIS: I would expect so, Commissioner. Could I indicate that all, in addition we have Alison Kurtz, formerly known as Alison McKenzie who's travelled down from Newcastle to give evidence today. I understand that there's some matters in her statement that my learned friend wishes to take up with her so she'll be called as well this afternoon. In addition, Dr Burton's practice manager from her statement, I've just been provided, I see that she's been his practice manager for about 20 years, she has travelled down from a suburb near The Entrance on the Central Coast today. She was  
40 only asked to do so this morning, apparently it's her day off, Commissioner, so we'd like to get through her as well.

THE COMMISSIONER: Well, we'll start at quarter to 2.00 and we'll go on 'til all those witnesses are finished no matter what time it is.

MR ALEXIS: Thank you, Commissioner.

**LUNCHEON ADJOURNMENT**

**[1.08pm]**