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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 1.50PM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

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

THE COMMISSIONER: Thank you, Commissioner, the statement of Jennifer Margaret Gage that I provided earlier can now be tendered and I understand that she's not required for any cross-examination.

THE COMMISSIONER: Right. The statement of Jennifer Margaret Gage dated 25 February, 2011 is Exhibit 77.

10 **#EXHIBIT 77 - STATEMENT OF MS GAGE DATED 25 FEBRUARY 2011**

MR ALEXIS: Thank you, Commissioner. The next statement I referred to before lunch is that of Joanna Yetsenga. Although Ms Soars indicated that she doesn't require her for any cross-examination there's one aspect of her evidence that in my submission needs some clarity and I'd seek to obtain that clarity now if convenient.

20 THE COMMISSIONER: Yes.

MR ALEXIS: Can I call Joanna Yetsenga.

THE COMMISSIONER: Would you be seated, Ms Yetsenga. Do you appear, Ms Furness?

MS FURNESS: I appear on her behalf and I make no application.

30 THE COMMISSIONER: Thank you. Ms Yetsenga, would you prefer to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS YETSENGA: I don't know the difference but I'm happy to do it under oath.

THE COMMISSIONER: Well, the difference is that in the second case you don't swear an oath but the legal effect of both is the same and you just do what you prefer according to your conscience.

40 MS YETSENGA: I'll speak the truth if that's - - -

THE COMMISSIONER: Well, you have to say - - -

MS YETSENGA: I'll do the oath, that's fine.

THE COMMISSIONER: You'll take the oath.

MS YETSENGA: Thank you, yes.

<JOANNA YETSENGA, sworn

[1.51pm]

MR ALEXIS: Is your full name Joanna Yetsenga?---Yes.

Spelt Y-E-T-S-T-A-N-G-A?---S-E-N-G-A.

10 Thank you. And you are presently a midwifery unit manager with the Women's Health Ambulatory Care at the Royal North Shore Hospital?---I am.

Thank you. You've held that position since about 2008?---Yes.

Now, is it the case that in this matter you've provided a statement of evidence yesterday, on 28 February?---Yes.

20 I provide you with a copy, please. Is that the statement to which I've just referred?---Yes.

Thank you. And is the content of that true and correct?---Yes.

Thank you. I tender that statement, Commissioner.

THE COMMISSIONER: Yes. The statement of Ms Yetsenga, do you mind just spelling your name, your surname again, I'm not sure if it's spelt correctly here?---No, that's not correct. Y-E-T-S-E-N-G-A.

30 Y-E-T-S-E-N-G-A?---E-T-S-E-N-G-A.

Sorry, that - - -?---That's all right.

It's not spelt correctly so the statement of Ms Yetsenga dated 28 February, 2010 is Exhibit 78.

#EXHIBIT 78 - STATEMENT OF MS YETSTANGA DATED 28 FEBRUARY 2010

40

MR ALEXIS: Now, just for clarity, Ms Yetsenga, about when was it in 2008 that you commenced in the position that you tell us of in paragraph 3? ---I actually think I started in the last week of 2007.

Thank you. And you became the, you became responsible for the overall management of staff and clinical services for women in areas involving obstetrics and gynaecology, is that so?---Yes.

And the five major clinics related to those areas?---Yes.

And is one of those clinics the one conducted by Dr Gil Burton - - -?---Yes, it is.

- - - at part of the outpatient clinic?---Yes.

10 And whereabouts in 2008 and 2009 was that clinic operated from?---It was operate, it continued to operate out of clinic 9 where it's been for some time.

Thank you. And did that operate in 2008 and 2009 every second Thursday morning between 9.00am and 12.00 noon?---Yes.

And it still does so?---Yes.

And in relation to the operation of that clinic involving Dr Burton's patients what was your particular role?---My role as a manager is ensuring the staffing, that, that the equipment's supplied and, and so on, that sort of stuff.

20 Now, the patient list in relation to the operation of that clinic - - -?---Ah hmm.

MR ALEXIS: - - - is that as you've described although in reference colposcopy clinic in paragraph 4 of your statement?---Yes.

So we should understand that the patient list for Dr Burton's patients in the outpatient clinic was not a computerised list?---No, none of them are.

30 It was more like a patient appointment book - - -?---Yes.

- - - in which entries were made?---Ah hmm.

And as you say in paragraph 4, we have the patients name, medical record number and their Medicare number?---That's correct.

And is that it as far as information concerning the patient?---Yes. The outside of a clinic's, those books are labelled for particular clinical reason why they are attending the clinic. So there's a colposcopy clinic and so on.

40 All right?---But there's no clinical information on the list.

All right. And if one was wishing to understand the purpose for which a patient was attending Dr Burton's clinic in clinic 9 on a particular Thursday morning, would one be able to determine that by simply looking at the patient list and - - -?---No.

- - - and nothing else?---No.

So if I was to suggest to you based on some evidence that's been given in this inquiry madam that, and this is at page 346, Commissioner, at line 30 and following, that the patient list provided a slight description of the patient's results or what it was that they were there for. What would you say to that suggestion?---That isn't so.

Thank you. Now just for absolute clarity you said in your statement that you have never seen a female by the name of Sandra Lazarus before. You say that in paragraph 8 of your statement?---Yes.

10

With the Commissioner's permission, I'll ask Ms Lazarus to stand briefly. You can see Ms Lazarus and, thank you, Ms Lazarus, if you could sit down. Having seen Ms Lazarus and indeed Sandra Lazarus as referred to in your statement, does that cause you to change your evidence in paragraph 8 at all?---Not at all.

Yes, thank you Ms Yetsenga. That's all I wish to ask.

THE COMMISSIONER: Ms Soars.

20

MS SOARS: I have no questions, Commissioner.

THE COMMISSIONER: Yes, thank you. Ms Furness.

MS FURNESS: Nothing thank you, Commissioner.

THE COMMISSIONER: Thank you Ms Yetsenga. Thank you for your evidence. You're excused.

30

THE WITNESS EXCUSED

[1.57pm]

MR ALEXIS: Commissioner, I now call Ratana Oum spelt O-U-M. I referred to - - -

THE COMMISSIONER: Yes.

MR ALEXIS: - - - Ms Oum earlier as Dr Pavlakis' secretary.

40

THE COMMISSIONER: Yes.

MS FURNESS: Was Ms Yetsenga's statement tendered?

THE COMMISSIONER: Yes.

MR ALEXIS: Yes.

THE COMMISSIONER: 78.

MR ALEXIS: 78.

MS FURNESS: 78. Thank you.

THE COMMISSIONER: Please be seated, Ms Oum.

MS FURNESS: I appear for Ms Oum.

10

THE COMMISSIONER: Yes. And - - -

MS FURNESS: I make an application.

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

MS OUM: I swear to tell the truth.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Madam, is your full name Ratana Oum?---That's right.

Am I pronouncing your surname correctly?---Yes.

10 Oh, thank you. Now should we understand that you are a medical secretary working for Dr Pavlakis and another doctor?---Dr Kanevsky.

Thank you. And you've worked for Dr Pavlakis for at least the last seven years?---That's right.

Thank you. In this matter have you provided the Commission investigator with a statement of evidence on or about 23 of February, 2011?---Yes.

20 Could I show you a copy of that statement, please. Firstly, is that the statement, a copy of the statement of evidence you've provided?---Yes.

And did you sign that today or on the 23rd or - - -?---I've signed it on the 23rd.

On the 23rd. Thank you. And is the content of that statement true and correct?---Yes, it is.

Thank you. Can I tender Ms Oum's statement please.

30 THE COMMISSIONER: Yes. The statement of Ms Oum is Exhibit 79.

#EXHIBIT 79 - STATEMENT OF MS OUM DATED 23 FEBRUARY 2011

40 MR ALEXIS: Thank you. Now, Ms Oum, in your statement in paragraph 5 you refer to being provided with a colour photograph of Ms Sandra Lazarus and you say in connection with the photograph and the other photographs of her sisters that you've never seen these females before, do you see that?
---Yes.

Again, with the Commissioner's permission I'll ask Ms Sandra Lazarus to stand so that you can identify her.

THE COMMISSIONER: Sorry to keep on standing, Ms Lazarus, it's all in a good cause.

MS S LAZARUS: I've given evidence of the people (not transcribable).

THE COMMISSIONER: That's all right.

MR ALEXIS: Now, Ms Oum, having had Ms Sandra Lazarus drawn to your attention is your position that you still say that you've never seen her before?---That's right.

10 Now, I just want to ask you something about some evidence that was given to the Commissioner at page 486 of the transcript and that's just a reference for the Commissioner so that he can follow. 486 line 20 and following, Commissioner. Now, it's been suggested, Ms Oum, that on an occasion in 2009 Ms Lazarus came to Dr Pavlakis' private rooms at Royal North Shore Hospital.

THE COMMISSIONER: I think that's said to be on 16 February, 2009 (not transcribable). That appears at the top of the page, Mr Alexis, just it might help to pinpoint the time more precisely.

20 MR ALEXIS: I'm not sure it does, Commissioner, with respect because 16 February is said to be the first of a number of occasions and if, Commissioner, you look at line 18, the middle of that long passage you'll see a reference to the second time and you'll see on the next line a reference to speaking to the secretary.

THE COMMISSIONER: As usual, Mr Alexis, you're quite right.

30 MR ALEXIS: So, Ms Oum, can I just come back to the suggestion that I wish to put to you and get your response to. It's suggested that at some stage in 2009 Ms Lazarus came and spoke to Dr Pavlakis' secretary. Now, just pausing there. How many secretaries did Dr Pavlakis have in the 2009 year?---Only one.

And that was you?---Yes. I do not work at North Shore Private.

40 All right. Now, what I want to suggest to you is that on that occasion - and Commissioner, I now move to 487 from about line 25. 24 or 25. And suggested that Ms Lazarus left some forms with you and for the purpose of my suggestion can you assume they are either the non-order voucher form which accompany invoices or any other type of form that they were left with you or someone called the receptionist so that they could be brought to Dr Pavlakis' attention. What do you say to that suggestion?---I never seen document left with me on that day.

THE COMMISSIONER: And this is all said to have happened at his rooms in the private hospital.

MR ALEXIS: Mmm.

THE COMMISSIONER: And you say he does not have rooms there?---No. We he, he has his practice at North Shore Private, but our secretary department is in the public hospital.

MR ALEXIS: Well in 2009 did Dr Pavlakis have what might be fairly described as private rooms or private consulting rooms?---He does have a private consulting room that's located at North Shore Private on level 4, suite 9.

10

Right. And is that where you work?---No.

Where do you work?---I work at the bottom end of the, near Pacific Highway in block 4.

I see. Out of the North Shore Private Hospital building?---Private, that's right.

Yes, I understand.

20

MS FURNESS: Public.

MR ALEXIS: And outside of the public hospital building?---Yes. It's part of the public hospital and - - -

THE COMMISSIONER: Not the private?---No.

MR ALEXIS: Now in relation to those private consulting rooms that you've identified in the North Shore Private Hospital building - - -?---Yes.

30

- - - does Dr Pavlakis have a secretary or a receptionist up there?---He does have receptionist there.

All right. And who is that?---There's a number of receptionists at the front desk. We have over 80 specialists attending those consulting rooms at the Private.

40

All right. Now just coming back to my suggestion, the suggestion is that either the secretary to Dr Pavlakis or the receptionist to Dr Pavlakis was provided with these forms. They were taken to him for his attention. He signed those forms. They were then provided back to either the secretary or the receptionist and that person then provided them back to Ms Lazarus. And this is said to have occurred some time in the 2009 year. What do you say to that suggestion to the extent that you might have been involved in that?---No.

And when you say no are you telling the Commission that - - -?---I do not work there which this doesn't involve me.

All right. Thank you Ms Oum.

THE COMMISSIONER: Ms Soars.

MS SOARS: Does Dr Pavlakis have a pigeon hole?---He does.

Where is that?---That's located in our department at the public hospital in block 4.

10 And does he have a practice of clearing that pigeon hole? Are you aware? Do you clear the pigeon hole for him?---Yes.

You do?---I do.

Did you ever see during the course of, I apologise Commissioner, I'll just get the date right and I'll find the transcript reference I'm referring to. In, in January 2009, did you ever see in the pigeon hole for Dr Pavlakis any non-order vouchers signed by Dr Michael Back for Nick Pavlakis? Do you recall?---I do not recall that.

20

Thank you. No further questions, Commissioner.

THE COMMISSIONER: Ms Furness.

MS FURNESS: Nothing.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: No, nothing further. Thank you.

30

THE COMMISSIONER: Yes, thank you Ms Oum. Thank you for attending and you're excused.

THE WITNESS EXCUSED

[2.08pm]

40 MR ALEXIS: Commissioner, can I now call, I'm sorry let me withdraw that. The other statement that I have referred to before the luncheon adjournment Commissioner, was that of Andrea Dibb. I understand arrangements have been made for her to travel in and give her evidence this afternoon, but I understand that she's not presently here. So in light of that could I call a witness that I know is here, that is Wendy Anne Hanson.

THE COMMISSIONER: Ms Hanson, won't you be seated, please.

MS HANSON: Thank you.

THE COMMISSIONER: You're not legally represented?

MS HANSON: No.

THE COMMISSIONER: I am able to make a declaration under the Independent Commission Against Corruption Act that protects you against your evidence being used in criminal or disciplinary proceedings. It doesn't protect you against any false evidence that might be given but it means that if I make such a declaration it means that no one can use your evidence
10 against you elsewhere other than for the purposes of trying to suggest that you weren't giving true evidence. Do you understand that?

MS HANSON: Yes.

THE COMMISSIONER: Do you want me to make that declaration or not?

MS HANSON: Yes, please.

THE COMMISSIONER: Pursuant to section 38 of the Independent
20 Commission Against Corruption Act, I declare that all answers given by Ms Hanson and all documents and things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for her 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
30 ALL ANSWERS GIVEN BY MS HANSON AND ALL DOCUMENTS
AND THINGS PRODUCED BY HER DURING THE COURSE OF
HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE
REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON
OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR
HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR
ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

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

MS HANSON: Under oath, please.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Thank you, Commissioner.

Madam, is your full name Wendi, with an I, Anne with an E, Hanson?---It is.

10

And I think you've been good enough to travel down on very short notice this morning and I think I should note on your day off to give evidence before the Commission today?---I have.

We thank you for that. Now, Ms Hanson, is your occupation that of practice manager for Dr Gil Burton?---Yes.

And you've held that position and worked with Dr Burton for the last 20 years, is that so?---Yes.

20

Can I provide you please with a statement of evidence, with a copy for you, Commissioner, and should we understand, Ms Hanson, that you provided this statement of evidence albeit in a draft form shortly before today but have signed the statement, a copy of which is before you, earlier today? ---Yes.

And is the content of that statement true and correct?---It is.

Thank you. I tender that statement, Commissioner.

30

THE COMMISSIONER: The statement of Ms Hanson will be Exhibit 80.

#EXHIBIT 80 - STATEMENT OF MS HANSON DATED 1 MARCH 2011

MR ALEXIS: Now, Ms Hanson, could I firstly get clear the location of Dr Burton's office or suite from which you conduct your duties for him?

40

---They're located within North Shore Private Hospital in the medical suites, they're on level 3 in suite 1.

And as you tell us in paragraph 6 I think there is a reception desk that a person entering his rooms will see as they come in and your work area is in and around there depending upon the particular task that you're attending to at the time?---That's correct.

Thank you. Now, can I start with the subject of patient lists and firstly should we understand that there is a patient list that is created from time to time in relation to the patients that attend to see Dr Burton in his rooms in the private hospital?---Yes, that's a day to day basis, yes, every day we have a list.

Thank you. And is that a list that you'd prepare or others in the office prepare?---All of us prepare.

10 Depending upon who takes the inquiry - - -?---Who takes the phone call.

- - - or takes the appointment and all of that?---Yeah, it's entered straight into the computer.

Now, in the 2008 and 2009 years was your position a five day a week position?---No.

So what were the days of the week that you worked?---Monday, Thursday and Wednesday.

20

So Monday, Wednesday - - -?---Monday, Wednesday, Thursday, yes.

Thursday. Thank you. And what were your hours each of those days? ---Usually from 8.00 till 7.00.

8.00am?---Till 7.00pm.

30 Till 7.00pm. Now, on those days of the week that you worked were Dr Burton's patients and yes, were his patients organised on any particular days or classified in any particular way or how should we understand the practice?---The appointment list you're referring to?

Yes?---Varying differentiating factors whether they're a gynaecological patient or an obstetric patient and whether they're a new patient or an old patient.

40 All right. And in relation to new or old gynaecology patients were they seen on a particular day of the week?---Usually a Wednesday is gynaecological day.

And when you say usually - - -?---Well, every Wednesday is a consulting day and mostly gynaecological.

And sometimes Thursday?---Sometimes, yes, every second Thursday.

Now, they're two of the three days that you work?---And Monday we do new obstetric patients.

So Mondays is pregnant women?---Yes.

And what about Fridays?---Fridays is an antenatal clinic.

And what about Tuesday I think the only day left?---Tuesday is an antenatal clinic too.

10 All right. So we should understand that Dr Burton would see gynaecology patients on Wednesdays and Thursdays those two days being your work days, is that so?---Yes.

All right. Now, in relation to the patient lists created for the gynaecology patients can you tell us whether apart from the patient's name and whether they are an old or a new gynae patient the list that is prepared contains any other information?---No.

20 Now, in terms of the production of a list, the circulation of the list or the distribution of that list can you tell us what happens there with the patient? ---It's gets on our computer screen, that's all.

So a hardcopy is not printed off?---Not normally, no.

Now, in relation to Dr Burton's outpatient clinic you tell us in paragraph 8 that that is conducted in clinic 9 at the public hospital every second Thursday morning, do you see that?---That's correct. Yes, that's correct.

Now, do you have anything to do with the preparation of a patient list for that clinic?---No.

30 To your knowledge, if you're able to say who does?---I'm afraid I don't know who does it, no.

Now, in paragraph 9 of your statement you tell us that you were recently shown some photographs of Sandra Lazarus and each of her two younger sisters, do you see that?---Yes, I do.

And out of the three of them you were able to recognise Ms Sandra Lazarus?---That's correct.

40 And we need to go through it again, I'm sorry, Ms Lazarus, but with the Commissioner's permission Ms Lazarus has just stood so that you can identify her?---That's correct.

Does that confirm the evidence that you've given in paragraph 9 that you do in fact recognise her?---Yes, I do.

And should we understand from paragraph 10 that your recollection is that she came to Dr Burton's consulting room on one occasion?---To my knowledge, yes.

And the consulting room you refer to in paragraph 10 is that, is the suite that you described on level 3 of the private hospital?---That's right.

10 Now, in paragraph 11 you recall to mind that Ms Lazarus had a piece of paper that she wanted Dr Burton to look at. Are you able to be any more specific as to what the piece of paper contained or what the nature of the document was that - - -?---I didn't look at it, no.

You tell us that on that occasion Dr Burton was too busy and so should we understand that on that occasion you refer to to the best of your knowledge Ms Lazarus did not get in to see Dr Burton?---No.

And you can be fairly certain about that can you?---Absolutely.

20 Can you recall to mind any conversation that you had with Ms Lazarus on that occasion?---On that day?

Yes?---No, it was a very busy day. And as I said we, she wanted Dr Burton to look at a piece of paper and I think we just took her mobile number and said I'll get him to call you.

All right. And you subsequently sought telephone contact did you with her?---She contacted the office, yes.

30 I see. And was there a further occasion after that contact by telephone that you saw her in Dr Burton's rooms?---No.

Now you tell us in paragraph 13 that in response to a question that was raised with you by the Commission investigator concerning the conduct of clinical trials, you can be absolutely certain that neither Ms Lazarus nor her sister conducted any trials here. Do you see, do you see that in paragraph 13?---I do.

40 And your reference to here I take it is a reference to Dr Burton's professional rooms on level 3 of the private hospital?---That's correct.

Thank you. Can I ask how it is and why it is that you can be, as you say in paragraph 13, absolutely certain that neither Ms Lazarus or her sister conducted any trial on any patients within those consulting rooms?---Clinical trials are not something that we do in the rooms. It's not something we have time to do, number 1, and it's just not something that has ever been done in the 20 years that I've been there. And it would, it would mean getting written consent from patients to take part in clinical trials and that's just not something that would happen in the private rooms.

Can I ask you to just direct your mind to whether or not you ever saw Ms Lazarus having a conversation with any patient in the waiting area in those rooms?---No.

Did you ever see or have you ever seen a device which we understand to be a Medex device, but a device nonetheless that was being tested during the 2008/2009 years on gynaecological patients?---No.

10 And do you recall ever an occasion where Ms Lazarus either sought or was given access to any patient files of Dr Burton's patients?---No.

I just want to come to some detail if I can, in late 2008 and 2009 apart from yourself was there a receptionist working in Dr Burton's rooms?---Yes, there's two others, two other staff members.

And do they effectively work under your supervision for Dr Burton?---Yes, they do.

20 And are you in a position on the days that you work at the, at Dr Burton's rooms to observe what goes on generally speaking most of the day when you're there?---Yes.

In the reception area?---Yes, yes.

Now could I just raise this suggestion with you for your consideration, because in evidence given to this inquiry, and Commissioner I'm looking at page 346 at about line 10, and Ms Hanson, that's a reference for the Commissioner. But it's been suggested that Dr Burton's receptionist had a patient list and that Ms Lazarus would be there in the waiting room near the reception area. She utilised the spare room which are, each of which are right next to each other and she talked to the patients - - -

30

THE COMMISSIONER: Mr Alexis, I think that the question better be split.

MR ALEXIS: Yes, thank you.

THE COMMISSIONER: There are too many aspects to it.

40 MR ALEXIS: Yes, there is, I was trying to get through it.

So firstly, Ms Hanson, the suggestion is that there was a receptionist in Dr Burton's rooms who provided Ms Lazarus with the patient list for the day. What do you say to that suggestion?---Well, I would say it would be highly unlikely. It's, you can print off a patient list but it's on the computer screen so it's not necessarily but it's not a list that we would ever give out to anybody.

Now, is it the case that the waiting room and the reception area and the spare room, if there be a spare room, are located right next to each other in Dr Burton's rooms?---There is no spare room, every room is utilised. There is an unused room which is the urodynamics room which is only used on a Friday.

Now, it's been suggested that in the waiting room which is next, said to be next to the reception area Ms Lazarus would actually talk with patients in a process of selecting the correct patients for the conduct of a test using the Medex device. What do you say to that suggestion?---No.

When you say no?---No, that's, that's highly unlikely, not without permission, no.

But it's not - - -?---We would not allow anyone to go talking to our patients.

But that's not something you've ever seen?---No.

And just in further elaboration of that, it's suggested that this occurred, that is the dialogue between Ms Lazarus and the patient, in the office area and, forgive me but I'm trying to capture the evidence that's been suggested in this matter, but it's said that the reception area is here, the main door, the entrance is there, the waiting room is just there, in that much area you would be at his office here, the spare office is just there, the reception is there, the waiting room is right there, now in the collection of words that I've just conveyed to you as part of that suggestion, does that in any shape or form accurately reflect the geography of Dr Burton's rooms that we have a reception and an office and a waiting area adjacent to one another?---It doesn't, I, I don't understand that, that.

All right?---When you say there.

Well, it's the best I could do, I'm sorry?---Yeah.

In any event, can I just raise this suggestion for your consideration, that the receptionist provided the patient list to Ms Lazarus, what do you say to that suggestion? Did that ever happen when you were there?---Absolutely not, no.

The patient list contained information and can I identify the information that is suggested to be available from the patient list, firstly the date of birth of the patient?---No, no.

That's not on the list?---No.

It's also suggested that the patient list contains a slight description of what the patient results or what it is that they're waiting for, the patient list, does it contain that information?---No.

Now, I appreciate, Ms Hanson, you've given evidence to the Commission that you've only seen Ms Lazarus on one occasion and that's the occasion - - -?---That's correct.

10 - - - where the unspecified form or document was sought to be provided to Dr Burton but can I just raise one other matter with you and I'm going, Commissioner, to page 292 of the transcript and we'll need Exhibit 1, thank you. Now, there's also been a suggestion made in this inquiry, madam, that's, I'll you to that folder in a minute, just if you can focus on my question, that in about May 2009, I'm starting, Commissioner, at 291 line 30, Ms Lazarus came into your office and his secretary printed off as a draft a document or a letter that had been prepared. What do you say to that suggestion?---Sorry, could you repeat that?

Of course. You were working as Dr Burton's secretary in May of 2009?
---Correct, yes.

20 The suggestion is that in or during that month the secretary of Dr Burton was provided with a USB to connect to a computer for the purpose of having a document that had been drafted printed out. What do you say to that?---I would say that's again highly unlikely, it's not, it certainly is not normal practice, no.

Well, - - -?---Not something that we would agree to do.

Should we understand that you know what a USB is?---I do.

30 And do you have a recollection of Ms Lazarus coming to you in May of 2009 and asking you if the USB could be connected into a computer for the purpose of printing out a draft document?---No.

Now, the suggestion is that the draft hadn't been printed out - - -

THE COMMISSIONER: On a blank piece of paper.

MR ALEXIS: Sorry, Commissioner?

40 THE COMMISSIONER: On a blank piece of paper.

MR ALEXIS: Thank you. On a blank piece of paper.

THE COMMISSIONER: In other words no letterhead, no heading. That's what is said?---It was a blank piece of paper?

The USB was printed, the USB was used to print out a piece, to print out something on a blank, on what was previously a blank piece of paper, that

is, paper that did not have a letterhead?---No, it would be unlikely. We wouldn't allow someone to put a USB into our computer.

And you were the secretary at the time?---Well, as I said I work Monday, Wednesday, Thursday, I'm not sure what day that was.

10 Do you remember - you say that it is unlikely, what I'm really trying to find out is whether you are saying you never did this or are you saying I don't remember having done this, it's possible that I might've done it but I don't remember it? I'm trying to find out what your evidence is?---No, I'm saying I have never done that.

MR ALEXIS: So the suggestion, just continuing if I may, Ms Hanson, is that the computer having printed out the letter or the document on a blank piece of paper that was then taken to Dr Burton, some changes were made to it and ultimately those changes were made with the use of a computer. What do you say to that?---None of that is familiar to me, not to my knowledge, no.

20 It's suggested in these terms, page 292 of the transcript, line 18 that the secretary allowed Ms Lazarus to make small changes, actually she made, I was typing or she was typing, so it's a little unclear as to whether it said the secretary made the changes or whether she was at the computer making the changes herself but it is suggested nonetheless that the changes were made and the document was then printed and the final was printed on letterhead. What do you say to that suggestion?---Well, I would, I would say again it's highly unlikely that that would happen.

30 Now, before you is a folder and if you could locate the numbering in the top right-hand corner. Towards the back of the folder, perhaps it might be easier for you to start at the back and work forward but I'd like you to go to the letter at page 277. Now, in May of 2009 was the letterhead, just leaving aside the letter for the moment, but is the letterhead that we see at 277 the letterhead that you were using for Dr Burton at the time?---We used two letterheads, we used this one for anything to do with the public hospital and we have a different letterhead that we use for anything related to the private practice. This is the letterhead relating to the public hospital which we would use in his role of Head of Department of Obstetrics and Gynaecology.

40

THE COMMISSIONER: Was - - -

MR ALEXIS: Sorry. Commissioner.

THE COMMISSIONER: That's all right. I'll leave it to you.

MR ALEXIS: Now where was the letterhead, and by that I'm including both letterheads that you've just described, where was that letterhead kept in

May of 2009?---We keep, our private letterhead is kept in our computer. We print it as we need it. This particular letterhead is kept in a drawer at the back of the reception desk. We put these into our printer as we need them if he's going to type anything as, well as head of department.

10 Now it's been suggested that the secretary obtained the letterhead of which we see on page 277 and printed the form of letter out on the letterhead and that that document having been printed out was then provided to Dr Burton for signature. What do you say to that suggestion?---I have no knowledge of doing that myself, no.

All right. Just take a moment if you will to look at the letter?---Ah hmm.

Look at who it's addressed to. Look at what it's regarding. And if you could take as much time as you need to to read or at least understand the general content of the letter and then I'll ask you a question about it?
---Okay.

20 Thank you. Now did you see this letter either in its original form or a copy in May of 2009?---I've never seen this letter before.

Does it follow that you had no involvement at all in the preparation of the letter whether at the draft stage or the final stage or any stage?---No, I didn't. No, I didn't, no.

And do you have any recollection of providing Ms Lazarus with letterhead or at least using the printer to print this letter on to the public hospital letterhead in May of 2009?---No.

30 Thank you, Ms Hanson.

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

MS SOARS: No, Commissioner, today I can proceed. Ms Hanson, you mentioned that there were two other receptionists I think who work with you. Is that correct?---That's correct.

40 What are their names, please in 2008/2009 period?---Susan Cutler and Cherylin Connors.

And do they have a particular role? Do each of them have a computer, for example?---There are three computers in the, there's two on each desk and one in Dr Burton's rooms. One on, one on either of our desks and one in Dr Burton's rooms. There's a front desk computer and whoever is don't the front desk on that day uses that computer. I'm often at the back computer doing accounting things and paying bills and stuff. We work alternate days, like Sue works on a, she only works two days a week. She works on a

Wednesday, Friday. Cherylin works Monday, Tuesday, Thursday, Friday and I work Monday, Wednesday, Thursday.

And is it your evidence that you rotate around as to which desk you might be sitting at, is that right?---Yes, there's always two of us in the office at any given time.

One might be in the back of the office at the back computer and one might be sitting at the reception desk?---That's correct.

10

Is that correct?---Yes.

So just to deal with the letter that my learned friend had taken you to at page 277?---Ah hmm.

If I could call for the original of Exhibit 26, please. If the witness could be shown that please, it's an original of that letter. It's entirely possible isn't it that Suzy, Susan Cutler that you mentioned, could have printed that letter for example and, onto letterhead, that's correct, isn't it?---It's possible.

20

Yes. And you might have, for example, been at the back of the office or perhaps even not even in the office just at that point in time when she did that, that's correct isn't it?---I may have been on a day when I wasn't working.

Can I just ask you to have a look at that letter?---Ah hmm.

Do you agree with me, don't you, that that looks like Dr Burton's signature? ---It does.

30

And you're familiar with it, are you, in your role?---Yes.

You, you, you said before that work three days a week and - - -?---Long hours.

It sounds like it. On the other days of the week is Dr Burton in his private consulting rooms or is he elsewhere?---No, he's in the private rooms.

So that's on a Tuesday and a Friday you're not there when he's there?

40

---That's correct.

And is it your evidence that Susan Cutler, sorry, is it Susan Cutler I've got her name wrong, haven't I?---Susan Cutler, yes.

And Sheridan, what's Sheridan's - - -?--- Cherylin Connors.

Cherylin Connors, are there on the days you're not there?---That's right.

THE COMMISSIONER: 6 May, 2009, sorry, I just want to make sure about this, sorry, I'm told that 6 May, 2009 was a Wednesday?---I would have been there.

And would the other two ladies have been there too?---No, just myself and Susan.

10 Well, knowing that it was a Wednesday what are the prospects of Susan having been the person to use the, the USB to print out the letter, to take it into Dr Burton, to get it back to do the changes and then to hand it over to Ms Lazarus?---Well, she may have, it's possible, it's certainly possible. It's unlikely that I wouldn't have heard something about it but it is possible.

Yes, thank you.

MS SOARS: So you can't say it didn't happen, is that - - -

THE COMMISSIONER: She said it's possible, Ms Soars.

20 MS SOARS: It's possible, she also agreed with me that she couldn't say it didn't happen.

THE COMMISSIONER: Yes, once it's possible it follows.

MS SOARS: Thank you, thank you, Commissioner.

30 On the days that you weren't at the, at the private rooms of Dr Burton were there any particular patients that he saw on those days?---All antenatal patients on Tuesdays and Fridays, all pregnant ladies.

I think you were asked about how many times you saw Ms Lazarus in Dr Burton's rooms and you gave some evidence that it was on one occasion I think you added the words that you, "I know of." Do you remember that? ---Yes, I do.

And by that you're indicating that it could have possibly been on more occasions that she attended his rooms but you may not be aware?---That's correct.

40 And is that because, for example, you're not there five days a week? ---That's correct.

And also because perhaps you might not for example been at the reception desk on the day she came in, is that correct?---That's correct.

And is it, is it also correct some days your duties require you to actually leave his private rooms and go elsewhere?---No.

To run errands, no?---No.

But, but possibly, for exactly, you would also take a lunch break I would imagine?---No.

No lunch break?---Not in 20 years.

I'll leave that, don't go there.

10 THE COMMISSIONER: Are you looking for a job?

MS SOARS: Ms Hanson, when you were talking about, in paragraph 13 of your statement in relation to clinical trials you accept don't you that it's entirely possible that a small pilot trial of ten patients could've occurred within Dr Burton's rooms? You were intending in paragraph 13 to refer to a full clinical trial weren't you?---Any kind of clinical trial would not take place in the rooms.

20 I'm putting to you it's entirely possible that a pilot trial could take place in the rooms of ten patients, that wouldn't be a major inconvenience would it? ---Yes, yes, ten patients would be, yes.

And one of the factors you refer to in paragraph 13 is that you would've had to issue or receive a consent form, do you recall that?---We would, we would have to issue a consent form.

30 Assuming the researcher's taking responsibility for that issuing or receiving a consent form then it's entirely possible isn't it that a pilot study of ten patients could've occurred in Dr Burton's rooms in the 2008, early 2009 period?---No, not without my knowledge, no.

I have no further questions.

THE COMMISSIONER: Yes, thank you. Ms Furness.

MS FURNESS: Nothing, thank you, Commissioner.

THE COMMISSIONER: Mr Alexis.

40 MR ALEXIS: Ms Hanson, just going back to page 277 of Exhibit 1, the folder before you. You've taken that letter out have you?---I was given it.

I see. No, that's fine, thank you. Exhibit 26. I may have already asked you this but was that the letterhead that was in use in May of 2009?---Yes.

I think you described as the letterhead used for public hospital?---Yes.

THE COMMISSIONER: So is the, the particular government department that was controlling the hospital at the time did that from time to time have its name changed?---Not to my knowledge, no. No.

So was it all - - -

MS FURNESS: Department might be a confusing word. What actually changed and what the letter refers to is the Area Health Service (not transcribable)?---Northern Sydney Area Health Service, yes.

10

THE COMMISSIONER: Thank you. Did that name change?---I, I, I've not heard of the change but I, it has always been known as the Northern Sydney Central Coast Area Health Service.

All right. Thank you.

MR ALEXIS: Thank you, Commissioner, if Ms Hanson could be excused.

20

THE COMMISSIONER: Yes, Ms Hanson, thank you very much for attending and for your help?---You're welcome.

THE WITNESS EXCUSED

[2.48pm]

MR ALEXIS: Commissioner, Alison Kurtz has been waiting patiently most of the day, I'd seek to now call her please.

30

THE COMMISSIONER: Yes.

MR ALEXIS: Ms Kurtz. And, Commissioner, just while Ms Kurtz is moving up to the witness box can I indicate that under her maiden Alison McKenzie there was reference to that on some of the invoices that were processed through Royal North Shore Hospital.

THE COMMISSIONER: Now, Ms Furness, you represent Ms Kurtz?

MS FURNESS: I do and I seek a declaration.

40

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act I declare that all answers given by Ms Kurtz and all documents and things produced by her during the course of her evidence at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for her 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 MS KURTZ AND ALL DOCUMENTS AND THINGS PRODUCED BY HER DURING THE COURSE OF HER EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HER TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

10

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

MS KURTZ: Oath please.

MR ALEXIS: Thank you, Commissioner. Madam, is your full name Alison Elizabeth Kurtz spelt K-U-R-T-Z?---Correct.

And are you currently employed as a mailroom clerk within the accounts payable division of the Health Support Services?---Correct.

10 And you commenced your employment with Health Support Services in about late October 2008, is that so?---Yes.

And that is a position that you worked in based in Newcastle?---Yes.

Thank you. Now in this matter is it the case that you've provided a statement of evidence on 25 November, 2010?---Yes.

20 Can I provide you with a copy of your statement and a copy for you Commissioner. And Ms Kurtz, is the content of that statement true and correct?---Yes.

Thank you. I tender that statement, Commissioner.

THE COMMISSIONER: Yes. The statement of Ms Kurtz of 25 November, 2010 is Exhibit 81.

#EXHIBIT 81 - STATEMENT OF MS KURTZ DATED 25 NOVEMBER 2011

30

MR ALEXIS: And Ms Kurtz, we should understand your maiden name as being McKenzie?---Yes.

And I'm not sure the statement tells me, when did that position change?---I got married on 20 March, 2010.

40 Thank you. Now just looking at your statement if you would. Should we understand that your duties following the commencement of your employment with Health Support Services are set out in paragraph 5 and in particular the preparation of non-order vouchers and tax invoices for entry into the Oracle computer system. Is that so?---Yes.

And also answering telephone inquiries from suppliers or health employees regarding the payment of invoices?---Yes.

Now in paragraph 7 of your statement you tell us about undertaking a two week induction course and that related I take it to the use of the computer

system and procedures relevant to processing of the non-order voucher forms and the tax invoices. Is that so?---That's correct.

And also did it include induction about the processing of the vendor maintenance forms?---No.

10 Now in paragraph 8 you set out what you understood the procedure was in 2008 and 2009. And from paragraph 9 to 12 I think you tell us about the vendor maintenance forms. Is that something that you were involved in, that is processing the vendor maintenance forms or did your job relate more to the processing of the vouchers and the invoices?---More to do with the invoices and the non-order vouchers.

20 So when we see for example in paragraph 10 where you tell us that in relation to the vendor maintenance forms there would be some check of the ABN website. Is that something you've ever done or not?---I have done it on some occasions. When we've received the vendor maintenance form attached to an invoice from the hospital department and we forward that on for the hospital to, for the vendor to be processed into Oracle.

And on those occasions when you've processed vendor maintenance forms have you always checked the accuracy of the ABN number disclosed on the form?---If it's required.

30 And when should we understand it's required?---When it wasn't listed on the vendor form we, I don't know, it's been a while. If it was a new supplier that wasn't in the system, in the Oracle system, we would sometimes fill out the vendor form on behalf of the supplier so that their information is on Oracle system in order for their invoices to be processed for payment.

So that arose when the form didn't contain the ABN number, you'd go on to the website, you'd obtain the number - - -?---Yep.

- - - you'd enter that number in so that the vendor could be accepted into the system?---Yes.

40 But what about if the vendor maintenance form disclosed an ABN number. Was that checked to make sure that the number was correct?---That wasn't accounts payable's responsibility. It was to, it was forwarded on to the vendor maintenance team and that was their responsibility to double check.

All right. And that had happened before you'd receive any vouchers or invoices to process?---Yes. Yes.

Because unless the vendor was entered into the system you wouldn't be able to process any invoice from them. Is that the position?---That's correct.

All right. Can I come directly please to paragraph 15 of your statement. And you tell us there that various checks were to be conducted at the stage where you were processing the tax invoice. Do you see that?---Yes.

And you say that the accounts payable branch was meant to ensure that the non-order voucher form contained the name and the signature of a requesting officer and the date as well as the name and signature of the authorisation officer. Do you see that?---Yes.

10 Now can you tell me how it was that those details were checked at the point of processing of the voucher and the invoice?---What we checked was that the fields were filled in. That the name was recorded on the form and also that there was a signature and a date.

All right. Now how would you know whether the name, just leave aside the signature for the moment, but the name of the person indicated as the authorisation officer was someone who was actually authorised to sign the form?---We were not told to double check the name, that the person's name was actually the person that should be authorising the invoice.

20

So for illustration purposes if you saw the name Bloggs in the box for the authorisation officer and you saw a squiggle that looked like the signature of Bloggs, that was good enough to process the form?---The process at the time, yes, that was what happened.

All right. Now what, what check was made if any as to the signature next to the name of the authorising officer? Was any check done to see whether the signature was that of the person who was described as authorising officer? ---No. There was no signature register provided by the area health service to Health Support Services.

30

Now in paragraph 17 you confirm in terms that you were not required to check actual signatures. Do you see that?---Yes.

And then in the next sentence you say there was no register of sample signatures within the accounts payable branch for use of the clerks. Do you see that?---Yes.

40 So should we understand that even if you wanted to check to see whether or not the signature was authentic or not in relation to the person who was described as the authorising officer, that's something that you wouldn't have been able to check even if you wanted to?---No, that wasn't our process at the time.

All right. Now did you have any understanding at the point in time where the voucher and the invoices passing through your hands whether that had been checked at some stage beforehand?---No.

Did you have an understanding about whether those matters were to be checked at some point after the forms passed through your hands?---No.

You had no understanding one way or the other?---No.

All right. Thank you. Now was there during the 2008 and 2009 period when you were working in accounts payable any priority given to the payment of invoices?---Can you explain a bit more?

10 Yes. If you look at paragraph 22 of your statement, you'll see that you refer to the accounts payable branch according some priority to invoices depending upon the date?---That was determined by the area health service. That wasn't determined by the department, accounts payable at Health Support.

All right. And what was it that you understood about what had been determined about priority and dates of invoices?---If an invoice was overdue, it was processed urgently. But again it was still the area health services decision whether to pay that invoice or not.

20

Now was there ever occasions when you would receive inquiries from people ringing up and chasing payment?---Yes.

And I think one of your roles that you told us earlier was to receive such inquiries?---Yes.

Now, I just want to come to some detail about some particular communications you had but firstly, could I ask you to look at Exhibit 1 which is a folder of documents and I'd ask you to look please firstly at page 30 228, that's page 2-2-8 and you'll see the number in the top right-hand corner?---Yes.

Now, Ms Kurtz, do we see your name written by hand across the top of the voucher at page 228?---Yes.

Just below the facsimile imprint with date 21 January, 2009?---Yes.

Now is the handwriting of your name your writing?---No.

40 And is your recollection that you received a number of vouchers marked for your attention in and about this period of January, 2009?--- Yes.

Now, in your statement you refer to a number of invoices that you processed and what I'd seek to do is just ask you to step through each invoice in the exhibit by reference to the page numbers and so could you look please next at page 230 and again is, is that your handwriting with respect to your name and the attention?---No.

What about on the invoice at 231?---No.

Now, if you could look at 234 which is the next voucher and again we see your name in handwriting underneath the facsimile date, do you see that?
---Yes.

And again is, is that your writing with respect to your name on 234 and page 235, the invoice?---No.

10 Thank you. 236 is the next one, if you could look at that please. And again, the writing with respect to your name on 236 and the invoice at 237, is that your writing?---No.

238, would you look at page 238 please?---No.

And again your name on 238 and the invoice at 239, is that, pardon me, your writing?---No.

20 242, would you look at that, please. Again, we see the, your name underneath the facsimile date and also the same detail on page 243, is that your writing?---No.

And finally I think on page 246, again do we see underneath the facsimile date your name in handwriting on the voucher form and also on the invoice at 247?---No, that's not mine.

30 All right. So in relation to all of those vouchers and invoices that I just referred to, is it your evidence that you received them because they were marked to your attention and when you received them your name had already been written on them?---Yes.

But you didn't write it?---No.

All right. Now, is there a particular occasion that you can recall involving a telephone conversation at some time before or during the receipt of these various vouchers and invoices that had been marked for your attention?
---Yes.

40 And, and what, what's that?---I received a phone from Sandra.

Now, just pausing there, what's your best recollection as to how it was that she introduced herself to you over the telephone?---She introduced herself as Sandra, she may have stated her last name, I do not know.

But you can recall Sandra?---I can recall Sandra.

Thank you?---She stated that she was a medical student and she was conducting research. She had several invoices that needed to be processed

as the supplier was chasing payment and I asked her to fax them through and mark them to my attention.

And so when those vouchers and invoices were received and marked to your attention that came as no surprise given the telephone conversation?---No.

And did you then, having received them process them and did you process them urgently or slowly or, or what?---I can't recall.

10 All right. Now, just coming back to the conversation, do you recall at all whether or not there was reference to equipment during the conversation, the use of equipment and what it was that she was doing?---She may have stated that she used equipment for her research.

THE COMMISSIONER: But you don't remember?---No.

All right.

MR ALEXIS: Just have a look at paragraph 50 of your statement on page
20 17 and you'll see, Ms Kurtz, that you tell us about receiving a phone call from Sandra and there's a reference to the need for tax invoices and urgent payment, do you see that?---Yes.

And do you see in the last sentence you refer to Sandra informing you that there was nobody on the floor, do you recall that?---Yes.

Having just reminded you of what you said in your statement can you tell us what she said about that, no one on the floor?---I was explaining to her that the invoices need to be approved by either a non-order voucher or a
30 purchase order. I said that her, the manager of the department should have that information for her to be able to get them approved.

THE COMMISSIONER: And did she respond, is that when she responded about nobody being on the floor?---Yes.

MR ALEXIS: All right. Now, you see that you also referred to equipment and the subject of her continuing her research, do you see that?---Yes.

Can you recall what she said about that, about equipment and research?
40 ---She was, from what I recall the, from the conversation she was stressed at the fact that she couldn't continue on with the research because the supplier was asking for payment and they wouldn't supply any more, any more of what she needed.

Mmm?---Yeah.

And how did she convey that stress that you - - -?---Just through her tone of voice, like she, she was anxious like to get the invoices paid as soon as possible.

Okay, thank you. Now, perhaps it's an obvious question but I take it you've received a few inquiries over the time that you were working in this department from - - -?---Yes.

- - - people wanting to be paid?---Yes.

10

How can you recall this conversation with Sandra in relation to these invoices in 2009?---For some reason it just stuck. I, I have spoken to several suppliers and because I was handling a particular letter, like the letter C, all the suppliers with the letter C I looked after and you got, you started a rapport with people and, and that's how I remember her.

Thank you, Ms Kurtz.

20

MS SOARS: Excuse me, Commissioner, I'm just deciding whether I just need to quickly confer with my client about some of the additional matters that have been mentioned in relation to that conversation. Commissioner, is it convenient for me just to take a moment to confer with my client in the back of the room?

THE COMMISSIONER: Yes.

MS SOARS: I would prefer to do that if I could.

30

THE COMMISSIONER: Yes.

MS SOARS: Thank you, Commissioner. Ms Kurtz, my name is Julie Soars and I'm a barrister for Sandra Lazarus and I'm going to ask you just a few questions. Prior to making your statement did you discuss this conversation with Sandra with anyone else within your department?---No.

And since making this statement have you discussed your conversation with Sandra with any person apart from the investigators?---Not to my knowledge, no.

40

And it was put to you before that you were obviously in a busy position with lots of people ringing you from to time in relation to invoices and non-order vouchers, is that correct, during early 2009?---Yes.

And you were asked questions about your recollection of this conversation? ---Yes.

Do you recall that? And I'm just putting to you, Ms Kurtz, that in fact my client she did telephone you and she did say her name was Sandra and she

had a number of tax invoices that required payment but that was the extent of her comments to you and you said she should fax or scan them to you and you could attend to it?---Yes.

But I'm putting to you that she didn't actually say more than that. Do you agree that that's possible that she didn't say more than that?---No, that's a lie. If, the only reason why my name is on these invoices is because I told her to attention it to me and fax them through.

10 I did put to you that she recalls that you did say to fax them through to her and put your name on them?---Right.

But is that the only aspect of it that you disagree with me in terms of what I've put to you?---There was more said.

Are you entirely sure or - - -?---I recall the conversation.

Is it possible that over time that perhaps a number of conversations have merged in your mind and that perhaps you're remembering some things that
20 occurred in the conversation with someone else?---No.

I have no further questions, Commissioner.

THE COMMISSIONER: Ms Furness.

MS FURNESS: Nothing, thank you.

THE COMMISSIONER: Mr Alexis.

30 MR ALEXIS: Nothing further. Thank you, Ms Kurtz.

THE COMMISSIONER: Thank you, Ms Kurtz, you may be excused, thank you for attending.

THE WITNESS EXCUSED

[3.12pm]

40 MR ALEXIS: Commissioner, one of the statements I provided before the luncheon adjournment was that of Andrea Maryanne Dibb, that's D-I-B-B, I understand she is now available to be called and I seek to call her now.

THE COMMISSIONER: Yes. Ms Dibb, won't you be seated here please. Ms Furness, do you appear for Ms Dibb?

MS FURNESS: I don't.

THE COMMISSIONER: You have no legal representation?

MS DIBB: No.

10 THE COMMISSIONER: Ms Dobb, I'm able to make a declaration that the evidence, if you wish me to, that the evidence you give can't be used against you in any criminal proceedings or disciplinary proceedings. That doesn't mean that the evidence can't be used against you should somebody wish to suggest that you've given false evidence at this inquiry but it does protect you against the evidence being used against you outside in relation to other kinds of criminal proceedings or disciplinary proceedings. Do you wish me to make such a declaration?

MS DIBB: Yes, please.

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

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

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

MS DIBB: Under oath.

MR ALEXIS: Madam, is your full name Andrea Maryanne Dibb?---Yes.

Your occupation is that of medical secretary to Dr Mark Sywak?---That's correct.

10 And you've been employed in that position since February 2004 save for a period of maternity leave from late August 2009 to mid March 2010?---Yes, that's correct.

And in this matter is it the case that you've provided the Commission investigator with a statement of evidence on 24 February, 2011?---That's correct, yes.

20 Thank you. Could I provide you with a copy of that statement. And, madam, is the content of that statement true and correct as best you're able to say?---Yes, it is.

Thank you. I tender that statement, Commissioner.

THE COMMISSIONER: Yes. The statement of Ms Dibb is Exhibit 82.

#EXHIBIT 82 - STATEMENT OF MS DIBB DATED 24 FEBRUARY 2011

30 MR ALEXIS: Now, Ms Dibb, just to clarify a couple of aspects of your statement if I may. Should we understand that you are based primarily in Dr Sywak's consulting rooms located in the AMA Building in Christie Street, St Leonards?---That is correct.

And in the period of 2009 up until taking maternity leave in late August can you tell us the days of the week and the hours each day that you ordinarily worked?---Yes. I worked Monday to Friday, I would normally start at quarter to 8.00 in the morning and leave at 4 o'clock in the afternoon.

40 Thank you. Now, in paragraph 4 of your statement you refer to come photographs that were provided to you for the purpose of seeing if you could identify Sandra Lazarus and one of her sisters and in that paragraph you say that you recognised one of those images as Sandra Lazarus. Do you see that?---Yes, that is correct.

And with the Commissioner's permission I'll ask Ms Sandra Lazarus to stand yet again if she be good enough to and can I ask you just to look at Ms Lazarus and does that confirm your evidence that it was Sandra Lazarus to

whom you saw and dealt with as you set out in your statement?---Yes, that's correct.

Thank you, Ms Lazarus. Now, in your statement you refer to an occasion that you put in mid January 2009 where Ms Lazarus came to Dr Sywak's rooms and what occurred as you've set out involved a USB stick and the use of a computer and the printing out of a document?---Yes, that's correct.

10 Now, apart from that occasion are you able to say whether you've seen Ms Sandra Lazarus ever since?---Never again.

Apart obviously from today?---That's correct, just the one time in the rooms.

Yes, thank you.

THE COMMISSIONER: Ms Soars.

20 MS SOARS: Commissioner, could I have access to the original exhibits relating to the requisition forms signed by Dr Sywak?

THE COMMISSIONER: What is the exhibit number?

MS SOARS: That's the thing, I don't have at hand the numbers, I apologise. Counsel assisting has offered to find it for me. I think it was probably around 67 or so.

30 THE COMMISSIONER: No. Are you talking about the non-order vouchers? What precisely is it that you want?

MS SOARS: Yes.

THE COMMISSIONER: The non-order vouchers?

MS SOARS: Yes, the non-order vouchers.

THE COMMISSIONER: 68A to D and 69A to D. And I suppose you don't know where they are in Exhibit 1?

40 MS SOARS: I'll be able to deal with it, thank you, Commissioner. Can I take you to paragraph 5 of your statement please, Ms Dibb?---Yes.

And I mean you're familiar with your statement through to paragraph 7 in which you describe that visit from Ms Lazarus?---Yes, I am.

I'm suggesting to you that you met Ms Lazarus on two occasions. The first was on 16 January, approximately, 2009 when she came to Dr Sywak's

rooms and she presented a bundle of non-order vouchers for signature. And I want to show you those non-order vouchers and ask some - - -

THE COMMISSIONER: All right. Can we just deal the question one at a time, Ms Soars, please.

MS SOARS: Yes. Thank you.

THE COMMISSIONER: Just put each proposition separately.

10

MS SOARS: Yes. Do you accept that there's a possibility that you might have met Ms Lazarus on more than one occasion?---No.

THE COMMISSIONER: That being so there's, there's not a great deal of point taking it further is there? But I mean I'm not stopping you.

MS SOARS: No.

THE COMMISSIONER: But I'm suggesting that to you.

20

MS SOARS: I probably just need to put something in relation to paragraph 7 - - -

THE COMMISSIONER: Yes.

MS SOARS: - - - and then I can deal with it, Commissioner, just to be sure.

THE COMMISSIONER: Yes.

30

MS SOARS: If I can take you to paragraph 7. I'm suggesting to you that the events that you're referring to in paragraph 7 actually occurred on the second occasion Ms Lazarus came to see Dr Sywak, which was in about the end of July, 2009?---No.

Do you accept that that's a possibility?---No, I don't 'cause on that day we had another doctor in our rooms using Dr Sywak's office. And I would certainly not have any occasion to be able to help her with that (not transcribable) the back room.

40

THE COMMISSIONER: Sorry, on which day are you talking about? You said on that day, so - - -?---I believe she said 28 July.

MS SOARS: 2009?---2009.

THE COMMISSIONER: So on that day you were - - -?---I was assisting another doctor that used our practice, the rooms which Dr Sywak normally occupies.

And was Dr Sywak not there?---He was not there at all that afternoon.

MS SOARS: Just so I can double check, it's your evidence is it that he wasn't in the rooms on 28 July of 2009 in the afternoon?---Yes.

And have you checked his appointment list?---He was at his clinic over at the hospital, at Royal North Shore Hospital.

10 Okay. Can I show you a document which is the last page of Exhibit 66, which is the statement of Mark Sywak made on 23 December, 2010. If you could just go to the last page of that document?---Yep.

See under the time 3.30pm?---Ah hmm.

20 It suggests that Dr Sywak was in his Christie Street rooms doesn't it?---It only lists that as our programme allows for the rooms where he's meant to be is there. But when it says no appointments to the right of that, that means that there are no patients coming in, which means on the Tuesdays he wouldn't come in until late, especially after I left, as he would be over at the hospital and the other doctor would be using his office, so he couldn't use anything, like his computer or anything to check anything.

But he would come back to his room at some point on that day?---Usually after I've left in the afternoon.

After you've left, which is as early as 4 o'clock your evidence is isn't it? ---That's true, yeah. But it's never usually at the time before I leave on the Tuesday.

30 No, but he could have come back some time after 4.00?---True.

You refer in paragraph 7, I'm looking at the sentence starting at no stage, which is just over half way down. Do you have that?---Yes.

You refer to vouchers?---Ah hmm.

40 Did you see how many non-order vouchers Ms Lazarus had in her hands at that time she had the meeting Dr Sywak referred to in that paragraph?---No. I mean she had in her hand, she actually had paper, I didn't, you know, think to count how many pages there were.

No, but do you accept it was more than one piece of paper?---Normally non-order vouchers are at least two pages - - -

But then they're attached - - -?---and plus the invoices attached would be more, yes.

And is your evidence that Dr Sywak would only ever sign a non-order voucher with an invoice attached?---That's normally what any doctor would do, yes.

But can you say knowing and having worked with him that that was his practice?---Of course, yes.

10 And did Dr Sywak ever discuss with you the non-order vouchers that or voucher that he may have signed - -?---Only to the point that it was very odd that he had been presented with the non-order voucher to sign as it had nothing to do with his speciality.

He never showed you the voucher, a non-order voucher that he had signed? ---No. He wouldn't normally show me them.

20 I just have one more question, Commissioner, if I can find the reference in Exhibit 1. If I can ask you to have a look at Exhibit 68A, B, C and D, noting that 68A is invoice number 1-0-8-0-7-1-0-0-8. I don't think I need to know the other invoice numbers. If I show you that bundle, could you just have a look at the signatures on each of the non-order vouchers, please? ---Yes.

Are you familiar with Dr Sywak's signature from the role that you have? ---Yes, I am.

Can you say whether you believe that the signature on any of Exhibit 68A to D is Dr Sywak's signature?

30 MR ALEXIS: I object to the question. It's a matter for you, Commissioner, but Commissioner, the Commission having (not transcribable) Dr Sywak I'm not sure his secretary's opinion can (not transcribable). And I say with all respect to (not transcribable). But as I say it's a matter for you, Commissioner.

THE COMMISSIONER: I think that's right. But I don't mind, you can ask the question, but the answer on this issue depends on weighing up the evidence of Dr Sywak and your client.

40 MS SOARS: Yes, Commissioner.

THE COMMISSIONER: Basically.

MS SOARS: Yes, Commissioner.

THE COMMISSIONER: But you can ask the question.

MS SOARS: Thank you, Commissioner. Would you like me to repeat the question?---No, I'm happy with that. I, I would say that the K on 68A is

odd. It normally would just have the (not transcribable). It would probably be most like 68D would be the closest to his signature.

And could you just identify the invoice number on 68A and the invoice number on 68D, please? 68A what is the invoice number?---Invoice number was 1-0-8-0-7-1-0-0-8. And then 68D was 1-0-2-1-4-0-9-0-8.

10 Thank you. If I could just, the witness could just be shown Exhibit 69A through to D, please. I think that signature is a bit more of an informal initialling type signature, but do you recognise the signatures on those, Exhibit 69A to D as Dr Sywak's signature?---Those are completely not his.

I have no further questions, thank you, Commissioner.

THE COMMISSIONER: Ms Furness?

MS FURNESS: Nothing, thank you.

20 MR ALEXIS: I propose Ms Dibb, if she could be excused.

THE COMMISSIONER: Yes, Ms Dibb. Thank you for attending. Thank you for your evidence. You may be excused.

THE WITNESS EXCUSED

[3.30pm]

30 MR ALEXIS: Now, Commissioner, and I make plain that I'm not seeking to achieve any record today, but I have another witness to call. There is no statement from her, but as I understand, she has made herself available today. Her name is Jane Carpenter and she is the other secretary to Dr Pavlakis to whom Ms Oum referred to in her evidence and I'd seek to call her now. And can I indicate that I haven't spoken to Ms Carpenter, so my learned friend will be hearing her evidence as I hear it.

THE COMMISSIONER: Ms Furness?

MS FURNESS: Commissioner, I am instructed to appear for Ms Carpenter.

40 THE COMMISSIONER: Yes.

MS FURNESS: I also haven't spoken to her and I wish to speak to her before she gives evidence. So I am seeking a short adjournment for that purpose.

THE COMMISSIONER: I would miss these short adjournments, Ms Furness.

MS FURNESS: Well, they're of benefit to all of us in more than one way.

THE COMMISSIONER: Speak for yourself.

MS FURNESS: Well, for most of us.

SHORT ADJOURNMENT

[3.31pm]

10

MR ALEXIS: Thank you, Commissioner. Could I call Jane Carpenter, please.

THE COMMISSIONER: Thank you. Sit down, Ms Carpenter.

MS FURNESS: I appear for Ms Carpenter and I have no application to make.

20

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

MS CARPENTER: The truth.

MR ALEXIS: Thank you, madam. Could you state your full name?---Jane Maree Carpenter.

What's your current occupation?---Practice manager at Northern Specialist Centre.

10 And that's at the Royal North Shore Hospital?---That's correct.

Now, could I ask you to tell us what your role at the hospital was in about February of 2009?---2009 I held the position that I have now, which is practice manager of the Northern Specialist Centre.

Thank you. And where should the Commissioner understand that you primarily conduct your day-to-day duties?---In the North Shore Private Hospital, Level 4, Suite 9.

20 Now, is your position one that has you at the hospital five days a week? ---Yes.

And what should the Commissioner understand as to your normal working hours? And again I'm taking you back relevantly to February 2009, although things may not have changed?---My normal working hours are from about, from 6.00 in the morning till about 7.00 at night.

And that's five days a week?---That's correct.

30 Now, in the North Shore Private Hospital, Level 4, does Dr Nick Pavlakis have rooms that could be described as private rooms or private consulting rooms?---Yes.

And whereabouts are those rooms located in relation to where you are based with your duties?---In the same suites.

THE COMMISSIONER: So do people have to, before going into his rooms, they have to go past you?---That's correct.

40 MR ALEXIS: Now, Ms Carpenter, should we understand that your role was secretary to Dr Pavlakis as well as a number of other doctors or would that be an incorrect description of your role in February 2009?---That's an incorrect description.

Thank you. Could you perhaps provide some helpful overview as to what your duties and responsibilities were in February 2009, particularly with respect to Dr Pavlakis and his, and the, and the seeing by him of patients in the private hospital?---My duties include managing the practice for Dr

Pavlakis. This includes all sessional times, patient bookings, customisations, processing in of patients and processing out and re-bookings.

Thank you. Now, could I ask Ms Sandra Lazarus to stand and I can say I think this will be the last occasion today, thank you.

10 Now, Ms Carpenter, I've asked Ms Sandra Lazarus to stand for the purpose of enabling you to see whether or not you can say whether you've seen her before in and around level 4 of the private hospital?---No, no.

You've never seen her before today?---No.

20 And could I just ask you to consider this suggestion which arises from some evidence that was given in this inquiry at page 486 of the transcript line 22 and following, that's just a reference for the Commissioner, Ms Carpenter. But there's a suggestion that in Dr Pavlakis' private rooms in the North Shore Private Hospital Ms Sandra Lazarus spoke to his secretary and on that occasion provided the secretary with a form, a voucher form for the purpose of having Dr Pavlakis sing it. Now, are you in a position to express any recollection or knowledge as to whether or not any such occasion involved you?---No, it did not.

It did not involve you?---(NO AUDIBLE REPLY)

30 And in the area where you work at the hospital have you ever had occasion to observe Ms Lazarus who you've now had the benefit of seeing either speaking with Dr Pavlakis or having anything to do with any of his patients in that area?---No.

Thank you, Ms Carpenter.

THE COMMISSIONER: Ms Soars.

MS SOARS: Could I just have a moment to obtain instructions just in the back of the room please, Commissioner.

THE COMMISSIONER: Yes.

40 MS SOARS: Thank you, Commissioner. Ms Carpenter, my name is Julie Soars and I'm a barrister and I'm going to ask you some questions on behalf of Sandra Lazarus. You are the Practice Manager, are there receptionists at work in the suite of rooms that you're responsible for?---Yes.

And how many are there?---Two.

Two. And could you identify their names and the hours that they work please?---For the period now or the period - - -

For the period in early 2009?---Denise Allen, 9.30 till 6.00. And I would have to go back (not transcribable).

There's usually two?---There is two.

So it's possible isn't it that you weren't the one who took calls or ushered anyone into meet Dr Pavlakis in relation to the meeting that my learned friend spoke to you about, is that correct?---There are no meetings held in the clinic rooms.

10

Did the doctors from time to time meet with people in the clinic rooms?
---Patients only.

It's your evidence they never meet with anyone other than a patient?
---Patients only in the clinical, in the clinical rooms.

But it's a theoretical possibility isn't it that someone could go into the clinical rooms and have a short conversation with the doctor, that's correct isn't it?---I don't know.

20

THE COMMISSIONER: Have you ever seen that happen?---No.

MS SOARS: I don't think I can it further with this witness, Commissioner.

THE COMMISSIONER: Ms Furness.

MS FURNESS: Nothing, thank you.

THE COMMISSIONER: Mr Alexis.

30

MR ALEXIS: Thank you, Commissioner, nothing further for Ms Carpenter.

THE COMMISSIONER: Thank you, Ms Carpenter, and thank you for your evidence. Thank you for attending.

THE WITNESS EXCUSED

[3.45pm]

40

MR ALEXIS: And I should note, Commissioner, that Ms Carpenter attended on very short notice and we appreciate her attendance.

THE COMMISSIONER: We're all grateful, thank you.

MR ALEXIS: Commissioner, I seek to tender a statement of Dr Michael John Campion. Dr Campion is one of the doctors who conducts clinics to which reference was made earlier today at the Royal Hospital for Women. You will see, Commissioner, that Dr Campion's statement was signed

yesterday and it's been provided only recently to our learned friend and I wasn't proposed calling Dr Campion unless of course he's required for cross-examination in which case we'll make him available. May I say, Commissioner, that the statement has been prepared on the basis that it deals with effectively the evidence that may, on one view of things, involve his patients based on the evidence that's been given in the inquiry so I don't expect that I would need to therefore elucidate any further evidence from him because of that. So it remains really as a matter for my learned friend to indicate her position with respect to Dr Campion.

10

MS SOARS: Commissioner, unfortunately this was received at about 1.35pm when I was still had no time to read it because I was preparing for the witnesses at 1.45. I'm happy for there to be a short adjournment and to have a look through it now and take instructions but I haven't been able to read it while I've been sitting at the bar table with the other things going on.

THE COMMISSIONER: Yes.

20 MR ALEXIS: I wonder if we could receive it as an exhibit, my learned friend can indicate once I finish tendering the remaining statements as soon as she's able, we'll then try and organise Dr Campion when we can if it's required but otherwise the statement can be - - -

THE COMMISSIONER: I think that there are an enormous number of people who've been inconvenienced in this inquiry to have to be here and a number are medical practitioners. I'm not seeking to prevent you but I think that it's really important to exercise some restraint here.

30 MS SOARS: Commissioner, I can only agree with you but I just do need to go through it and talk to my client.

THE COMMISSIONER: I understand that.

MS SOARS: Thank you.

THE COMMISSIONER: Exhibit 84 will be Dr Campion's statement. Sorry, 83 I think it is.

40 MR ALEXIS: 83.

THE COMMISSIONER: Yes.

#EXHIBIT 83 - STATEMENT OF DR CAMPION

THE COMMISSIONER: You're about to tender more statements are you, Mr Alexis?

MR ALEXIS: That was my proposal.

THE COMMISSIONER: And you have no further witnesses this afternoon?

MR ALEXIS: No.

10 THE COMMISSIONER: Well, I think that what we'll do is, now, we should be finished by 4 o'clock I assume?

MR ALEXIS: Yes, Commissioner.

THE COMMISSIONER: And Ms Soars, you can tell Mr Alexis by 4.15 I presume?

MS SOARS: I should be able to, Commissioner.

20 MR ALEXIS: In that category - - -

THE COMMISSIONER: But I assume that if Dr Campion is going to be called he'll be called tomorrow morning?

MR ALEXIS: That would be my wish but (not transcribable).

THE COMMISSIONER: You may not be able to.

MR ALEXIS: May not be able to organise that.

30 MS FURNESS: I have no idea if he's - - -

THE COMMISSIONER: No, I understand that.

MS FURNESS: I'll certainly make inquiries but - - -

40 THE COMMISSIONER: If he is to be called I need to know why. In other words on what issues he is to be cross-examined and I will, if there is to be a question about it I'll return to the hearing room and determine that before 4.30 today.

MR ALEXIS: Commissioner, could I raise another witness statement that may lead to some controversy. Can I hand up the statement of Pamela Norelle Maffullo, that's M-A-F-F-U-L-L-O. You'll see from paragraph 3 that Ms Maffullo was relevantly the director of the internal audit unit and it's Ms Maffullo who in paragraph, pardon me, paragraph 20 on page 6 deals with the meeting to which Professor Walters gave evidence which produced the pages of typed notes of that meeting. That's a matter that I think I raised at the time or following the conclusion of Professor Walters'

evidence, whether there was any controversy concerning the content of those notes because of the limited cross-examination of Professor Walters. And the response I think at the time was that there wasn't a controversy concerning that. The object of Ms Maffullo's evidence is not only to corroborate Professor Walters' evidence about that meeting, but also to give evidence about two further telephone conversations that she had with Ms Lazarus following that 3 February meeting. The first of those telephone conversations is referred to in paragraph 26, and you will see the relevant content of that conversation in paragraph 27. There's also the further
10 telephone conversation on 4 March in paragraph 29. Again you'll see the relevant content of that conversation in paragraph 30. Ms Maffullo created some contemporaneous handwritten notes of these telephone conversations which are found in Exhibit 1. And for the purpose of preparing Exhibit 1, we had transcriptions of her handwritten notes prepared because they were difficult to read and they were also reproduced within Exhibit 1. And as you would know, Commissioner, Exhibit 1 was served well before the commencement of this inquiry on 14 February. I'm indicating that because as I understand there may be notwithstanding what has already been said about the 3 February meeting, an issue concerning the content of the two
20 telephone conversations and I think my learned friend- - -

THE COMMISSIONER: I'm not sure if I, and I don't understand the relevance of the 3 February meeting to the two telephone calls.

MR ALEXIS: Well, the two telephone calls followed the meeting.

THE COMMISSIONER: Yes.

MR ALEXIS: And followed by and large what was said during the
30 meeting. And Ms Maffullo was following up during those subsequent telephone conversations with Ms Lazarus in relation to matters discussed during the meeting.

THE COMMISSIONER: What is said in paragraph 26, is that duplicated in the notes of the, of the meeting?

MR ALEXIS: Yes. And importantly, what's in 27. And you'll see, Commissioner, in paragraph 28, "I made handwritten notes of my
40 conversation."

THE COMMISSIONER: Yes.

MR ALEXIS: And then over on 29, that's the second of the two telephone conversations. And again in 31 you'll see the reference to the notes.

THE COMMISSIONER: I understand now, yes.

MR ALEXIS: And I'm just raising this because our learned friend I think wanted to just reserve a position in relation to those two telephone conversations as distinct from the 3 February meeting. I'd be wanting to tender Ms Maffullo's statement and if she's required, then we'll endeavour to make arrangements subject to your views on it, Commissioner. But I just wanted to raise that before we adjourn because that should- - -

THE COMMISSIONER: Well, I need to know when she would be coming.

10 MR ALEXIS: Yes. Well, perhaps the first question is whether she's required.

THE COMMISSIONER: Yes.

MR ALEXIS: And perhaps that's a matter that can be considered as well before we adjourn.

THE COMMISSIONER: Yes. Well, Ms Soars, what's your attitude about Ms Maffullo's statement?

20

MS SOARS: It's another of these statements that we're trying to get instructions on on the run, Commissioner. Can it be treated in the same way as Dr Champion's?

THE COMMISSIONER: All right. I mean, I'm not sure whether it is a matter of instructions. I mean, I suppose in the end these things always are, but this is really an issue on which I expect the legal advisors to come to a decision on.

30 MS SOARS: Well, as soon as my client gives me firm instructions about what she contests and what she doesn't, I know there is one area of contest and that's whether she, well, I think, I think Ms- - -

THE COMMISSIONER: The issue that Mr Alexis raises is a serious one. If he's accurate in his submission as to paragraphs 26 and 27, namely that these paragraphs do not advance the position in the notes of the meeting of 3 February, there was no cross-examination on those issues. And now what's the point?

40 MS SOARS: Well, where I see the issue, Commissioner, is in paragraph 26 Ms Maffullo says, "I told her that she had told me that her files were at home previously", and in the note which I'm just going by the typewritten note of 6 February 09 which is attached to her statement, Ms Maffullo says, "I noted that SL said at interview that the files were at home, no at Professor Hacker's unit." So what I'm trying to- - -

THE COMMISSIONER: Are these, the note of the interview, does the note of the, do you accept that the note of the interview recalls what's recorded on paragraph 26?

MS SOARS: No. I couldn't find the reference in the note of the interview. I have looked myself quickly, as I said, on the run. If my learned friend could find the reference if he wants to bring one to my attention, but I couldn't find it myself today.

10 THE COMMISSIONER: Yes. And is there anything else?

MS SOARS: I haven't been able to take instructions, but that's the one that has been pointed out to me.

THE COMMISSIONER: Just identify it again, please, just for clarity.

MS SOARS: The issue that I have been given instructions on is that my client didn't say at the interview that, or, that the files were at home or didn't say at any time that the files were at home for Royal Hospital for
20 Women.

THE COMMISSIONER: Is there anything else?

MS SOARS: I haven't been able to obtain instructions, I'm sorry, Commissioner. I'm seeking those as my learned friend pleases.

THE COMMISSIONER: Yes. All right. Mr Alexis, does the, is the last sentence of paragraph 26, does that, is that reflected in the notes?

30 MR ALEXIS: I believe it is, but I'll have to put my finger on the passage. I'll get it in five minutes.

THE COMMISSIONER: All right. Well, I will admit Ms Maffullo's statement as Exhibit 84.

#EXHIBIT 84 - STATEMENT OF MS MAFFULLO

40 THE COMMISSIONER: And the issue of whether Dr Campion and Ms Maffullo would be required for further evidence I will, will be decided. Before I fix that time have we got anything else?

MR ALEXIS: Commissioner, I can tender- - -

THE COMMISSIONER: Well, let's deal with that and then see what the time is.

MR ALEXIS: Yes. Thank you, Commissioner. Could I provide some order to this. The Commission heard earlier from Dominic McGee in relation to accounts payable procedures and related subjects. And he at the time was under the auspices of the South Eastern Sydney and Illawarra Area Health Service. Can I, pardon me, tender the following statements?

10 THE COMMISSIONER: So, Mr Alexis, I'm just wondering, and you can just tell me what's most convenient. We could do all of this after the telephone conversation, I think that's going to take place tomorrow morning.

MR ALEXIS: Or we could do it in the next minute now, if it's (not transcribable)

THE COMMISSIONER: It will just take a minute, will it?

MR ALEXIS: It won't take very long.

20 THE COMMISSIONER: All right.

MR ALEXIS: So what I'm seeking to do is to tender a statement from Kristie, that's K-R-I-S-T-I-E, Lee, L-E-E, Bright, who was relevantly the data entry team leader in relation to the unit that Dominic McGee was working for at the time?

THE COMMISSIONER: All right. That will be Exhibit 85.

MR ALEXIS: Thank you.

30 THE COMMISSIONER: That's the statement of Kristie Lee Wright.

#EXHIBIT 85 - STATEMENT OF MS BRIGHT

MR ALEXIS: The next statement is from Belinda Jane Thompson, 22 November, 2010. She was relevantly Mr McGee's accounts payable supervisor.

40 THE COMMISSIONER: Is that Thompson with a P, is it?

MR ALEXIS: And finally- - -

THE COMMISSIONER: That will be Exhibit 86, Ms Thompson's statement.

#EXHIBIT 86 - STATEMENT OF MS THOMPSON

MS SOARS: Could I indicate, Commissioner, I have an objection to that statement being tendered, if paragraph 49 is read, because the source of the knowledge in paragraph 49 isn't identified and it's unfair under those circumstances.

THE COMMISSIONER: Well, laws of evidence don't apply. It's through the ICAC Act.

10

MS SOARS: I am aware of that, Commissioner, but it's a question of fairness?

MS FURNESS: Sorry, what paragraph?

49.

MR ALEXIS: Perhaps we could deal with this very quickly, Commissioner. At page 12 is the page of her statement which contains paragraph 49.

20

THE COMMISSIONER: Yes.

MR ALEXIS: It seems plain enough that the material under objection is some hearsay concerning what was happening with Stacey Linton but I've called Stacey Linton and I called her for the particular purpose of providing the Commissioner with more admissible evidence than the form that we see it in paragraph 49 so to the extent that - - -

30

THE COMMISSIONER: I'll understand paragraph 49 as being based on whatever Stacey Linton says - - -

MR ALEXIS: Yes, and, and I can - - -

THE COMMISSIONER: - - - the reliability of that statement will be judged by reference to her evidence.

MR ALEXIS: Yes, and I can indicate to perhaps alleviate any concern my learned friend has that any submission I make concerning Stacey Linton will be based on her evidence?---Yes.

40

THE COMMISSIONER: Yes. Does that satisfy you?

MS SOARS: I think it does, Commissioner.

MR ALEXIS: All right. Now, can I also tender the statement of Carolyn Fay Rutkowski, R-U-T-K-O-W-S-K-I and, Commissioner, she was relevantly the accounts payable division manager who supervised Ms Thompson, Ms Bright and Mr McGee.

THE COMMISSIONER: Yes. Well, the statement of Carolyn Fay Rutkowski will be Exhibit 87.

#EXHIBIT 87 - STATEMENT OF MS RUTKOWSKI

10 MR ALEXIS: Thank you, Commissioner. Now, in similar fashion with respect to the evidence that was heard this afternoon Ms Kurtz can I tender the statement of Rhonda Anne with an E Newmarch who was the support accounts manager within the Northern Sydney Central Coast Area Health Service.

THE COMMISSIONER: Yes, Exhibit 88 is the statement of Rhonda Anne Newmarch.

#EXHIBIT 88 - STATEMENT OF MS NEWMARCH

20

MR ALEXIS: Thank you. Can I also tender the statement of Donna Crockett-Brown, that's C-R-O-C-K-E-T-T-Brown of 19 November, 2010 and she was the accounts payable manager within the accounts payable division of Health Support Services that supervised Ms Kurtz.

THE COMMISSIONER: Yes, Exhibit 89 is the statement of Donna Crockett-Brown.

30

#EXHIBIT 89 - STATEMENT OF MS CROCKETT-BROWN

40 MR ALEXIS: And just while I have that statement, could I ask you to go to the pullout schedule which is attached to that statement for the purpose of indicating that on one page a schedule has been prepared which identifies the date of invoice, the invoice number, the company, the date, the box entitled "date invoice received in HSS," that's Health Support Services, is important for reasons that will become apparent later in the inquiry. The schedule also identifies the person by name who processed the relevant invoice, there's a column which summarises the relevant cost centre codes and the departments to which those codes related and on the right-hand side there's a table which identifies the particular doctor that is said to have authorised payment together with a table which indicates whether or not the original or a copy of the relevant voucher or invoice was provided so - - -

THE COMMISSIONER: Where is, yes, that's very helpful, thanks.

MR ALEXIS: Thank you, Commissioner. So that's Donna Crockett-Brown and finally on this subject but I tender the statement of Rochelle Gay Wright, her maiden name is Woodley-Smith and that name features on some of the vendor maintenance forms that were provided for the Royal North Shore Hospital, her statement is dated 25 June, 2010.

THE COMMISSIONER: Thank you. Exhibit 90 is the statement of Rochelle Gay Wright.

10

#EXHIBIT 90 - STATEMENT OF MS WRIGHT

MR ALEXIS: Sorry, what was that number, Exhibit 90?

THE COMMISSIONER: 90.

MR ALEXIS: Thank you. And finally in relation to the Royal North Shore Hospital, Commissioner, could I tender the statement of Sue Shulbury who was at the relevant time and still is the general manager of the Royal North Shore Hospital.

20

THE COMMISSIONER: Exhibit 91 is the statement of Sue Shulbury.

#EXHIBIT 91 - STATEMENT OF MS SHULBURY

MR ALEXIS: And relevantly, Commissioner, she provides evidence in relation to the cost centre codes and the departments to which they relate, that's in paragraph 15.

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THE COMMISSIONER: Yes.

MR ALEXIS: And she also provides some information concerning Professor Ross Smith and his financial delegation which is provided for in paragraph 20, that is he had no financial authority.

THE COMMISSIONER: Yes, thank you.

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MS FURNESS: Dr Champion's statement?

THE COMMISSIONER: I beg your pardon?

MS FURNESS: I'm sorry, Dr Champion's statement, oh, it's been, got an exhibit number, I'm sorry.

MR ALEXIS: 83.

THE COMMISSIONER: 83.

MS FURNESS: Thank you, Commissioner.

MR ALEXIS: So, Commissioner, the position is that subject to understanding the position with respect to Dr Campion and Ms Maffullo, we have Dr Marsden by telephone from Laos in the morning, that completes the statements that are to be tendered.

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THE COMMISSIONER: Yes, thank you.

MR ALEXIS: And subject to final instructions, of course, that completes the witnesses I propose calling and after we complete Dr Marsden tomorrow I'll then be seeking to have the matter adjourned until 23 March.

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THE COMMISSIONER: Yes. Ms Furness, would it be possible in the interim just in case it should become necessary to find out whether Dr Campion or, or Ms Maffullo would be able to give evidence tomorrow morning?

MS FURNESS: I've had inquiries made in the last ten minutes about Dr Campion and he has a clinic all day Wednesday. Clearly he could physically be here, however, it would involve disrupting - - -

THE COMMISSIONER: No, I understand that. I won't force that tomorrow but there is then an issue as to if it does become necessary we can cross that bridge when we come, if and when we come to it.

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MS FURNESS: No inquiries have been made about Ms Maffullo but I suspect she might be somewhat easier if she's at work.

THE COMMISSIONER: Does she work in Sydney?

MS FURNESS: I'm told she's retired.

THE COMMISSIONER: If you wouldn't mind trying to get in touch.

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MS FURNESS: Certainly.

THE COMMISSIONER: Thank you. It's now 5 past 4.00. Well, I think the easiest would be, Ms Soars, if you could advise Mr Alexis when you're ready and we can then come back into the, if your attitude is that you want these witnesses to come back we'll have to return to the hearing room. If your attitude is not that then we'll simply adjourn till 10.00am tomorrow.

MS FURNESS: Yes.

THE COMMISSIONER: But if we're to come back to the hearing room I really do think that we should return not later than 4.30 and if possible before then.

MS FURNESS: I will endeavour to do so. If I could just ask through you, Commissioner, if my learned friend could indicate in the note of 3 February, 2009 where it is - - -

THE COMMISSIONER: Yes, I'm sure he - - -

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MS FURNESS: If he could, thank you.

THE COMMISSIONER: We'll adjourn until 4.30.

SHORT ADJOURNMENT

[4.08pm]

AT 4.30pm THE MATTER WAS ADJOURNED ACCORDINGLY