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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 MONDAY 14 FEBRUARY 2011

AT 2.20PM

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: Mr Alexis.

<SANDRA SYNTHIA LAZARUS, on former oath

[2.21pm]

10 MR ALEXIS: Thank you, Commissioner. Commissioner, I've been asked to keep my voice up, if it appears that I'm shouting, it's not intended to be directed at you. Ms Lazarus, could I ask you to go to page 95 of Exhibit 1 of the examination bundle and do you see there a copy of a letter under the hand of Dr Neiron on the letterhead of Sydvat, S-Y-D-V-A-T Pty Limited addressed to Professor Hacker?---Yes, that's correct.

Now we see that the letter is dated 14 May, 2008. Did you see either the original or a copy of this letter at or about the date that it bears?---The original, yes.

20 And did you receive the original document and then pass it on to Professor Hacker?---Yes, the original document was given to me Johel Neiron which I passed on to Professor Neville Hacker.

All right. And when the letter was provided to you by Dr Neiron had it already been signed by him?---That's correct. The original was given to Professor Neville Hacker.

All right. Now - - -?---I think you have a copy of the original, yes.

30 Thank you. Now at page 96 and following we've reproduced what appears to be an agreement for clinical trials between Medex Screen (Australasia) Pty Limited and the Royal Hospital for Women. Do you see that?---That's correct.

Now did you prepare and type this agreement that we see?---This agreement was prepared by Medex.

And what should we understand you to mean by that?---The content of the, the agreement is all Medex.

40 So by Medex - - -?---Medex prepared it, by Johel Neiron.

All right. So when you refer to Medex you're referring to Dr Neiron are you?---That's correct.

And did he provide you with the content of the document that we see over some four or so pages comprising what is seemed to be the agreement for clinical trials?---Yes, that's correct. It's exactly the same as the one he had in place at Nepean Hospital.

All right. Now was that form of agreement provided to you electronically?  
---Yes, that's correct.

10 And did you then take that form of agreement electronically and - - -?---I was instructed by Johel that I need to, as done previously with St Vincent's Hospital and Strathfield Private, exactly the same agreement with no alternation apart from the institution was print it on the letterhead of the institution and given to the professors, the principle investigators for them to look at and they've signed in each case. And then the original was taken to Johel for him to sign and two copies were produced.

All right. Would you just attend to my question though?---Sorry.

Did you take the form of this agreement that you received electronically and have it produced on to the letterhead of the Gynaecological Cancer Centre?  
---That's correct.

20 And where did you obtain the letterhead from in order to do that?---Again from the tray that was in the room.

They tray of letterhead that you say was readily available to you?---That's correct.

And where did you use the electronic form of the document to produce it on the letterhead of the hospital? At the hospital or at home or somewhere else?---No, at the hospital.

All right?---Again from those, those three computers that were outside.

30 THE COMMISSIONER: When you say the room, what room do you mean?---Professor Hacker's offices.

MR ALEXIS: And outside Professor Hacker's office is the area that I think you referred earlier to as the reception area?---That's correct and that's where, and just in front of the reception area there is a large table in a U-shape with one side has the printers and the other side has the computers.

40 All right. And that's where Professor Hacker's personal assistant Helen - - -?---That's correct.

- - - conducts her work from?---That's correct.

All right. Now, after you produced this form of agreement - - -?---Ah hmm.

- - - in the way that we've just discussed, did you provide it to Professor Hacker?---Yes, that's correct.

And did you provide to him personally?---Yes.

And what did he do with it after you handed it to him?---I handed that to him and, as well as the original copy of the sponsorship and he kept the original copy of the sponsorship and he signed this.

And the original copy of the sponsorship is the - - -?---The Sydvat letter.

- - - letter, just so we're clear, is the letter at page 95 to which we refer?

---Yes, that's correct.

10

And when you provided Professor Hacker with this agreement was it already printed on the hospital letterhead?---Yes, that's correct.

And did you see him do anything with the agreement?---No, just sign it.

All right. Did he read it as far as you could see?---As far as I could see, yes, he, he take a - - -

And - - -?---He took a moment and looked at it.

20

Ah hmm. And you observed him put his signature on the last page of the agreement that we see reproduced at page 99, is that right?---That's correct, yes.

Just have a look at page 99 just so that we're clear?---Yes.

Did you see Professor Hacker put his signature on the page as the principal investigator?---That's correct.

30

And was that on the date 16 May, 2008?---It might have not been the 16<sup>th</sup> but he did sign this.

And why do you express some doubt about the date adjacent to his signature being a date upon which he placed his signature (not transcribable)?

---Because it might have been a day off that, that's because I picked this up, again to the best of my recollection, I picked the letter up from Sydvat, took that to Professor Hacker so it would be around the, it would have been the 16<sup>th</sup>, I don't know why I'm doubting myself, it would be the 16<sup>th</sup>.

40

So if it wasn't the 16<sup>th</sup> it would be a date approximate to it?---Yes, that's correct.

Thank you?---Nevertheless he didn't point out the date error and after which I didn't even notice.

All right. Now, as we look through the terms of the agreement - - -?---Yes.

- - - I may have missed something but there doesn't seem to be anything in this document which provide any obligation on behalf of Medex Screening (Australasia) to pay any money?---That's correct. That's because Johel said to me in a previous conversation that Medex and Sydvat need to remain separate. He said it will jeopardise the integrity of the trial if the Medex company provided the funds for the trial. For that reason he used his second vehicle which is Sydvat, his second company I should say, Sydvat to pay the funds to the hospitals for these clinical trials. If you have a look at the clinical trial agreement that you have a copy of from St Vincent you will see that it's Johel who signed on behalf of Medex and it's Johel who signs on behalf of Sydvat as well.

All right?---For that reason he asked me to, he, for that reason he's actually not put anything about sponsorship with the Medex agreement.

So the Commission should understand then that the omission of any provision concerning funding was deliberate?---Yes, that's correct.

And it reflected an understanding that you had that the arrangements for funding should be provided for independently of this agreement?---That's correct.

And - - -?---That's why you'll see that he's, Johel Neiron has put the, the sponsorship letter, the funding letter on the Sydvat letterhead and not a Medex.

And before as you say Professor Hacker signed the agreement at page 99 of the bundle - - -?---Ah hmm.

- - - do you recall whether he raised any question at all about the issue of funding?---Not even once, no.

So your evidence is that he perused the document and without asking any question about any provision about funding he signed the document on or about 16 May?---That's correct.

Thank you. Now, do you know whether this agreement was ever signed by anyone on behalf of Medex Screen (Australasia)?---No, I don't, because um, I took the original and gave that to Johel Neiron and he said he could contact Neville Hacker in terms of sending that through. Like the same way he did with St Vincent, which again you have a copy of.

Ah hmm. Now, if you look at an email that we've reproduced at page 100 of the bundle, we see, do we not, that on 17 June, you'll pick the date up about halfway down, you emailed Dr Neiron with the Clinical Trial Agreement attached. Do you see that?---That's correct, yes.

And you then go on to say, I withdraw that, I'm sorry. Do you recall whether the Clinical Trial Agreement that you attached was the one that had been, that you say executed by Professor Hacker?---That's correct. Yes, that's the one.

10 And was the purpose of the email to indicate to Dr Neiron that the Clinical Trial Agreement had been signed on behalf of the hospital and that the trial was then ready to go?---That's correct, because on that day when I left the original um, he wasn't available 'cause he was overseas so I emailed him to make sure that he received a copy and plus the original um, at his office.

Now, if you look at the content of your message- -?---Ah hmm.

- - -particularly the second-last line, it was obvious, was it, when you sent the email that no funding had been provided at that point in time?---Um, no, because he told me that there was um, because he's always provided, Johel Neiron's always provided funding in, in lots. If you have a look at- - -

20 Perhaps you haven't read the email, Ms Lazarus, I'd invite you to do so. You see in the second sentence you say, "This was the last outstanding document for the trial", that's the agreement of course, "Can you please confirm that the required trial funds will be transferred to the given bank details in two weeks as outlined by you in our conversation." Do you see that?---Yes, that's correct.

So at the time you sent the email you must have understood the trial funds as they're described had not been transferred and you were expecting them to be transferred. Is that right?---No, that's not correct.

30 Well, how should I understand what you said in your email?---Um, the understanding is um, every two weeks um, Johel Neiron asked me to provide documentation and after within the two weeks of providing that milestone he said that the next lot of funds will be provided. If you go back to his funding format for Strathfield and St Vincent you'll see after every document it's taken two weeks to provide, for him to transfer funds in lots. He informed me in the previous conversation that the first lot of funds had already been provided, once I'd give, give, gave the account details to him.

40 So is your evidence to this Commission that before sending this email on 17 June, 2008 to Dr Neiron, you had an understanding that Dr Neiron had already deposited some- -?---That's correct.

- - -funds in anticipation of the clinical trial?---That's correct.

How much?---I'm not clear on the amount. Um, I was never, the amount was never disclosed to me for either hospital, including Strathfield and St Vincent.

But you knew from his letter that he was proposing to pledge \$75,000 as at 14 May?---That's correct. That's correct.

10 So what did you understand had been deposited of that 75 thousand between 14 May and 17 June?---Um, he informed me the first lot of 75 had already gone in. This 75 will again go in and gradually each, after each, every three months the \$75,000 would go in. That is because an arrangement was reached between um, Johel Neiron, myself and my sister in a conversation in a meeting at his um, Bronte Road office in Bondi Junction that um, even though I was to conduct pilot trial at Strathfield I had taken the liberty to complete two hundred patients for the amount that he provided, which was \$47,000. That was to only complete the (not transcribable) pilot. But I wanted to see whether it was working or not. I had taken the liberty of completing two hundred patients at no charge to him, after which I had told him that there was no way I would continue doing this work without being paid for it. An agreement was reached when he recruited Michelle that I was to be paid \$1,500 per test to complete the test, the screening, including analysing and doing all necessary administration work, administrative work um, to make sure that the trials are completed at these hospitals. Um, I was never involved in the account-keeping of these, of the funds for these hospitals and that includes at Strathfield and at St Vincent. When he put the funds in was never proven in document to me. Um, he never made me aware of the fact that he, he told me verbally, "The funds are in, give me the next set of documents and I will", like for example, once he started and I showed him that, one, like, for example at the Royal Women's Hospital, we'll take that as an example, once I started and approached and started writing a protocol um, well, we'll go back to Strathfield and St Vincent, sorry.

20  
30 Well, let's not go back to Strathfield, let's stick to the Women's Hospital?--- Okay. He didn't - - -

Just answer these questions. Firstly on the letter of 14 May - - -?---Ah  
hmm.

THE COMMISSIONER: Is it 14<sup>th</sup> or 13<sup>th</sup>?

MR ALEXIS: On 14 May - - -

40 THE COMMISSIONER: Is that the one on page, what, sorry, what page is that? 95?---95.

MR ALEXIS: At 95. Dr Neiron is there pledging \$A75,000. Do you see that?---That's correct.

Now is your evidence to this Commission that by the time you came to write the email at page 100, just over a month later - - -?---Yes.

- - - you had an understanding that that \$75,000 had already been paid to the Royal Women's Hospital?---That's correct, including (not transcribable) another lot of 75,000.

And so you - - -?---That's what I was trying to explain - - -

Well, thank you. We'll get to that. So is your reference then in the email for a confirmation that the required trial funds will be transferred - - -?  
---Yes.

10

- - - relate to additional funds that you expected?---That's correct. Yes.

Now is that expectation based on what you've described as discussions which included Michelle with Dr Neiron?---That's correct.

So despite his letter of 14 May, 2008 that pledged \$A75,000 - - -?---Yes.

- - - you had an understanding that more funds were going to be coming forward?---That's correct.

20

And that's what your email is referring to?---That's correct. Because previously in the other hospitals like St Vincent and Strathfield, he'd never written a letter like this. This letter was requested by me from him to make sure the funds were in there when Professor Hacker said, well we need to get a letter saying that this funding body will provide funds. He mentioned that, for that reason I went to Johel Neiron and said, "Oh, Neville Hacker has asked for a letter outlining that the funds will be available." St Vincent and Strathfield did not, the supervisors there did not ask for a letter. It was automatically understood that he would be putting funds in. And in both cases he had done that. He had gradually put all required funds once I met the milestone, which is handing him in this application, which is handing him the trial agreements and showing him that the pilot studies are completed. So he would come into the hospital, Johel Neiron would come into the hospital and go through the ten patient files, because he can read the Medex graph. He would look at the Medex graph and say, okay, this patient has this, this patient is that. He would analyse the graphs. Based on that he would make a transfer again. Again without my knowledge or whether the funds had been transferred or not.

30

40 Is there any practice which altered you to the transfer of funds when a sum of money had in fact been transferred or deposited with the Royal Women's Hospital?---No. Because it was never the case in Strathfield as well. I was never informed.

Just don't worry about Strathfield. I'm asking questions about the Royal Women's Hospital?---Okay.

THE COMMISSIONER: Can I just, sorry, Mr, there's no need for that.



MR ALEXIS: When the 75,000 had been deposited with the Royal Women's Hospital how was it that you came to be notified of that?---I wasn't notified of that.

Well when did you learn that 75,000 had been deposited with the hospital?  
---I was never notified of any funds being deposited. To the best of my knowledge the funds had been, every time I met a milestone that Johel Neiron had transferred the funds. I only became aware that no funds were transferred when Walter, what's his, I forgot his first name, I've only met  
10 him, Martin, what's his first, full name?

Ms Lazarus, I asked you about this email on page 100 a moment ago?---  
Yes.

And you told me that by the time you wrote this email you understood that 75,000, that is the sum referred to in the letter of 14 May - - -?---That's correct.

20 - - - had been deposited?---That's correct.

Well were you in fact aware of that or not?---I was aware of it for him keeping his word that he had transferred, he told me he had transferred, I believed that he had transferred.

So the position is that he told you - - -?---That's correct.

- - - that funds had been transferred?---Yes.

30 You learnt of that prior to 17 June when you sent this email?---That's correct, yes.

But you didn't, you did not independently understand that the hospital in fact had received the money. Is that your position?---That's correct, yes, I had no documentation.

All right?---He's never given me any documentation in terms of funds.

40 THE COMMISSIONER: When did he tell you that he'd transferred the funds?---When I handed him the, this application.

So what, the - - -?---And the protocol as well. This went back - - -

What's the, what date is that? Is that the date of, when you say the application - - -?---You see, the first time I - - -

What document is that? Can you tell me what document the application is?  
---One second, I'll just find it.

Which application is it?---It's the, it's page 26 and also page - - -

So that's the date, the 26<sup>th</sup>, the document at page 26 is dated 10 April?  
---That's correct.

So on 10 April he told you he had already transferred \$75,000?---No, no,  
no. Not when this, not, not on the, not on April.

10 Well, I asked you when did he tell you?---When I handed him the, the letter  
from the hospital.

Which letter?---The letter, page number 24 and 25, sorry, not 24, 94 and 95.

94 and 95?---94, sorry, and 93. He told me that's okay, he's got the account  
details and he's made the first transfer.

20 Do I remember correctly, the, who gave you the wording of, you typed the  
letter at page 93?---No, I didn't type this, no.

Page 93?---Page 93, where is it? The accounts, no, I didn't type this letter.

Who typed that?---The wordings are from the accounts department. I gave  
him the figure, I told him what the RE was and to write to who may  
concern.

So who typed it? Who typed the letter?---He typed it, he typed it.

30 Who's he?---The accounts person.

Ravi Ratnam?---Ravi Ratnam, yes.

And after you gave him the figure?---Yes.

And did you tell him the figure, the \$73,950 - - -?---(not transcribable)

- - - will be paid?---The, to the, I was given that exact figure by Johel.

40 No, did you tell him that?---Yes, that's correct.

On the 13<sup>th</sup> of May?---On the 13<sup>th</sup> of May.

So by the 13<sup>th</sup> of May it hadn't been paid yet?---No, it had been paid  
because Johel told me it's been paid into the Royal Hospital for Women's  
account, that exact amount. I didn't know where that amount came from  
because he was supposed to put in \$75,000. That amount came from his  
mouth, he said I've already transferred \$73,9560 into the Royal Women's  
account, that foundation.

So when did he tell you that?---In a conversation when I handed him the ethics application back in April.

Now, which application?---The ethics application page 26. This one.

So you said you handed that back to him in April?---Yes.

10 And was that when he told you he had already paid \$75,000?---Two weeks later he said he, I've already paid the money. I said but I haven't - - -

Just a moment - - -?---Sorry.

- - - please?---Sorry.

Can you just start again?---Okay.

20 When did you hand the document at page 26 to Dr Neiron?---A day or so later.

So just after 10 April?---That's correct.

And did he say anything to you about the money then?---I asked him, I said will you be transferring the funds? He told me yes, that in, you know, after every, every time you hand in a document I will transfer the funds in, within two weeks.

30 Every time you hand in a document?---A milestone, so for example he had these milestones laid out for me. He said once you do a protocol or once you do an ethics application and once I've seen the pilot completed, the graphs for Medex and once you've started the 200 patients, once you've reached 50, 100, 150, 200 patients, I will continue putting in the funds. Every time the pilot study was completed, ten patients were completed, every time 50 patients were completed, the next 50 were completed, Johel came into the hospital, looked at the graphs because he could interpret the graphs, he looked at the graphs, he helped me interpret some of these graphs, he made a decision that within two weeks those funds, the next lot of funds will be put in.

40 Let's just come back to this?---Okay.

The 26<sup>th</sup> - - -?---Ah hmm.

- - - he told you that the money would be paid when, the first \$75,000?  
---Within two weeks.

Within two weeks. Then by 13 May had the money been paid, the \$75,000 been paid by 13 May or not?---To the best of my knowledge yes, he informed me that he had.

All right. Then why - - -?---I told him - - -

- - - why is the letter worded in the way that it is at page 93 which refers to what's going to happen once the funds have been paid in?---That's just the way it's written I guess.

10

But, but why is it written like that? Didn't you realise when you saw this that it hadn't been paid in?---This letter is actually part of the letter that St Vincent Hospital had written so the wordings are exactly the same almost.

Well, that suggests that it hadn't been paid in, doesn't it?---Yes, it might, yes.

And didn't you think it hadn't been paid in then?---No, because I never checked St Vincent, I never checked Strathfield and they were paid then.

20

But to, I'm not talking about St Vincent's or Strathfield?---I know but I'm just telling you that there was no reason for me to ever doubt the fact the money wasn't there because when I handed him the protocol for Strathfield and St Vincent he put in the first lot of money. When I handed him the ethics application he put in the first lot of money. I actually inquired to him, I said I didn't give you the bank details as yet. He said no, but there is always a general fund.

Now, Ms Lazarus, is there any explanation - - -?---Ah hmm.

30

- - - for the fact that the letter at page 93 only refers to one payment of \$73,000 and no more?---That's because he said that this amount was already paid and that's why I said why - - -

And when did he say that this amount is already paid?---Once I handed him the ethics application.

And what date was that?---So two weeks from the 10<sup>th</sup>.

40 10 April?---That's correct. That's where I got - - -

So that's around 24 April?---That's correct.

So before the end of April - - -?---Ah hmm.

- - - he told you that the \$75,000 - - -?---No, he - - -

- - - had already been paid?---\$73,950.

73,000 had been paid?---That's correct, that's why I added that figure.

But despite that - - -?---I had (not transcribable)

- - - the letter of 13 May - - -?---That's correct.

- - - talks about the money still to be paid in?---That's correct.

10 And why is that only one payment of \$73,950 was referred to and not the series of payments that you were asking about, that you've told us about?  
---I'm not sure.

But that's strange, isn't it?---Yes.

I mean, here's this man, he's, how, how much was he going to pay in all together?---To cover, roughly about \$220,000 to about \$250,000.

Did he tell you that?---That's correct.

20

When did he tell you that?---In a conversation at his office.

When?---Before he approached me, back in 2007.

30 So why did you tell, I don't understand then why you told Mr Ratnam the amount involved would only be \$73,000 when you knew that it was going to be between \$220,000 and \$250,000?---Well, that, that's just the first payment that he, well, not the first but that's just one payment he made. I should have worded the letter the total, total sum of 220,000 but because he's only made that payment that's the payment I've added in.

Yes, Mr Alexis.

MR ALEXIS: One thing that is clear, Ms Lazarus, is that by the time you add the email of 17 June you hadn't see any patient and tested the Medex device on any patient at the Royal Women's Hospital?---No, that's not correct.

40 So by the time you sent this email of 17 June is your position that you had already undertaken testing - - -?---That's correct.

- - - of patients?---That's correct.

And do you say that that's the position despite to this point not having received any word regarding the approval or otherwise of the ethics application?---That's correct.

And when was it that you first saw approximately the first patient to test the device?---Early, early 2008.

Can you do better than that?---It would have been March, February.

Well, Ms Lazarus - - -?---That was to complete the, the ten pilot study.

But on 10 April you'd applied for ethics approval for the pilot study - - -?  
---Ah hmm.

10

- - - and the larger study?---Yes.

Is your position to this Commission in your evidence that - - -?---Ah hmm.

- - - in fact the pilot study commenced prior to that?---That's correct, that was the case for all of them.

THE COMMISSIONER: And you said it was completed before then?  
---That's correct. That's, if you look at the logging dates of the sample of  
20 patient files that you actually have for Strathfield, you would see that- - -

But we're not talking about Strathfield?---I know, but that's an example.

MR ALEXIS: Well, let's not use, I'm sorry, let's not use an example outside the hospital we're speaking of?---Okay. Yes.

At the Royal Women's Hospital- - -?---Yes.

30

- - -was your position that prior to lodging the Ethics Application, which we've already- - -?---Yes.

- - -gone through in some detail, you had in fact undertaken testing- - -?  
---That's right.

40

- - -of patients at the Royal Women's Hospital using the Medex device?  
---Completed the pilot study. Neville Hacker had looked at all the graphs, Johel Neiron had looked at all the graphs and they were fine with it. I even collaborated the pilot study results, presented them to Neville Hacker who then instructed me to contact um, the research, other research student  
because they were having a meeting for me to present that information in a presentation.

So your evidence to this Commission is that 10 patients were tested using the device at the Gynaecological- - -?---More.

- - -Cancer Centre- - -?---Even more, yes.

- - -at the Royal Women's Hospital?---That's correct.

And were they Doctor, were they Professor Hacker's patients?---Yes, and Professor Marsden's.

All right. And in order to undertake those tests, did you obtain access to the patient lists for each of those- -?---That's correct.

- - -doctors which indicated the dates upon which the patients would be attending?---That's correct.

10

And did you then speak with those 10 patients or however many you saw prior to lodging the Ethics Application- -?---That's correct.

- - -and get their consent?---That's correct.

And did they sign a form?---Yes, that's correct.

Was that the Patient Consent Form?---That's the Patient Consent Form.

20

And where did you see each of these patients?---Um, in the clinic.

Well, whereabouts in the clinic?---In the Royal, Royal Hospital for Women.

Is that the outpatients' clinic- -?---That's correct.

- - -associated with the Gynaecological Cancer Centre?---That's correct.

30 And were there any staff either there or on hand or available when you undertook these tests?---Yes. Um, there were nurse at the nurses' station, there were always about three nurses. Um - - -

40 Can you identify any one of them by name?---No, I can't, no. I can't even put a face to the two clinic, the nurses that you're talking about. One I can roughly, but they, they don't, they don't have patient lists, they only look at patient files for their own research. The nurses that you do need to speak to are the nurses that are actually at the nurses' station on a daily basis who actually have the patient list. You walk into the outpatients' and they're there at the station. They're on a rotation of some sort, I'm not quite sure. There were a few that I constantly saw. Um, there were a few that were on rotation. They're the ones that I get the patient list from.

Ah hmm. But these were Professor Hacker's patients and Associate Professor Marsden's patients?---That's correct.

And I gather they were aware that you were proposing- -?---(not transcribable)

- - -to speak with each of those patients- -?---Yeah.

- - -and potentially test them with the device, subject to their consent?---  
Yes.

And how did they know that you were doing that?---Because I showed them the graphs and they even helped me analyse the graphs based on the algorithm and analysing, like, this algorithm at the back to read Medex graphs.

10 But before each test how did they know that you were about to speak with and potentially test their patients?---I told them. They were there.

So your evidence is that both before each examination of each patient- - -?  
---Not each patient, each um, for me to call upon them on each patient, that um, before seeing each, before seeing each patient, that would be just not possible. Um, their patient lists are about um, roughly fifteen, ten patients a day which they leave a window of about um, twenty, twenty to fifteen, thirty, half an hour, so minutes ..... analyse that patients. For me to actually go speak to them about every patient, that's just not possible and that's not  
20 how I followed the other trials as well. The patients wait in the patient waiting room. I would approach them with the Patient Consent Form and patient information and invite them um out, we would basically read out what's on the information sheet um, and leave that information sheet and Patient Consent Form with them. I would go while I go recruit the next one.

Now, in a period up to say the beginning of May 2008- - -?---Ah hmm.

- - -how many patients do you say you tested with the device and given the result of that test, produced the algorithm result on the computer?---Um, ten  
30 pilots were completed. We started on the 200 um, roughly, I can't give you an exact number, I'm sorry, I just can't remember um, it would have been around the fifty-something mark.

Right?---Or less. Around that, you know, 40, 50 mark.

So your evidence is that prior to you prevailing upon Mr Ratnam to prepare those two letters that we've discussed- - -?---Yes.

- - -prior to the payment of any funds from any sponsor- - -?---Ah hmm.  
40

- - -and prior to any ethical approval- - -?---Yes.

- - -you conducted not only the ten pilot test on patients of Professor Hacker and Associate Professor Marsden- - -?---Yes.

- - -but also commenced to undertake the further study involving the 200 patients?---That's correct.



MS SOARS: Mr Commissioner, I think part of what was just put to the witness was, is, is inconsistent with the evidence she'd given about what she knew about the payment.

THE COMMISSIONER: She's just agreed to it?---Yes. But I have to tell you why I've agreed to it. Um- - -

You can explain that later if you're asked the question again?---Can I say something else?

10

No.

MR ALEXIS: At page 101, Ms Lazarus, is a copy of the letter from the Scientific Review Committee concerning the Ethics Application. Do you see that?---Yes, that's correct.

And were you provided with a copy of that letter after it was received by Professor Hacker in late June 2008?---Yes, that's correct.

20 And may we take it that it was obvious from a reading of that letter that the Ethics Application had been reviewed and required substantial amendment before it would be considered any further?---That's correct.

And obviously enough, by late June 2008 you understood that no ethical approval had been provided in relation to either the pilot study or the larger study?---Yes, that's correct.

30 Now, insofar as what occurred after the receipt of this letter, is your position that you did not lodge with the committee any amended or further application for approval?---It was under development and the draft was with Professor Hacker once again.

Well, is the answer to my question, no, you didn't?---No, no, no, I didn't, because he hadn't approved, he was still working on the draft.

So, so is your position that you attended to amending the application, the result of that work in an amended form was provided by you to Professor Hacker?---Yes, that's correct.

40 And he sat on it in effect and it wasn't taken any further?---It was still with, he was, the application was still with him. He didn't sit on it um, he communicated with me. I went back and made more changes. Like I said, once I lock it I can't make any changes.

Ah hmm?---So he was in constant communication but still at which no point he told me to stop analysing patients. Not once did he ask me. And in terms of um, where I put the files and all that stuff, even when I had spare time I even helped Helen file other patient files away.

So can I be as clear as I can about this- - -?---Yes.

- - -part of your evidence, Ms Lazarus. Are you saying that Professor Hacker, despite receipt of this letter which you've said in terms that the application had not been approved by the Ethics Committee, nonetheless instructed you to proceed with the balance of the larger-scale trial- - -?  
---That's correct.

10 - - -involving the Medex device at the Royal Women's Hospital?---Yes, that's correct.

And is your evidence that it was because of that instruction from him that you continued to do so?---That's correct.

And was the instruction ever in writing or was it verbal only?---No, verbal. I ever asked him. I said, "Did you want me to stop?" And he said, "No, that's okay."

20 All right. You didn't drop him an email or anything like that confirming the verbal instruction that he provided to you?---No, no.

Right?---That was, I believe that to be true because um, in previous trials there had been analysing patients before the Ethics Application was even though. Um, you've got evidence of that, that's in my folders that you've, that you, that were taken from my home and you'll see- - -

Well, just on that theme, Mrs Lazarus, Ms Lazarus, whatever may or may not have happened on other hospitals- - -?---Yes, but I'm just trying to say  
30 there was no reason for me to ever doubt what they're saying, that's because I was following exactly the same instructions in previous cases. This is (not transcribable) first large trial that I was conducting. For me not to believe my superior who has not taken any measures on me to stop doing, even though he's looking at graphs, you have to realise, I'm going to keep doing what he's asked me or hasn't asked me to do.

Well Ms Lazarus, that might explain why you didn't think it was surprising that the director of the Gynaecological Cancer Centre would instruct you to proceed without approval. But the position that you put to this Commission  
40 is that he did give you that verbal authority to proceed?---He did, yes. He saw me going in and out with patient files. He saw me going in and out with equipment as well. He knew where the equipment was kept. I kept that equipment behind the reception area. I kept my files behind the reception area.

At page 103 is a document that you prepared under cover of which you dispatched to the accounts payable section of the Area Health Service the vendor maintenance forms that we see at page 104 and 105. Is that right?

---That's correct.

And who did you understand the person Santashi S-A-N-T-A-S-H-I, to be?

---Some person at the accounts department. I have no idea.

And did you, thank you. How did you know to send those documents to that person?---I don't know.

You see you've handwritten that name on the forms at page 104 and 105?

10 ---Yes (not transcribable), he's just a person who would have picked up the phone or the person who was listed as the person to contact in the accounts department. No one in particular, I've never seen this person in my life. I've never spoken to this person prior or after that conversation. It was just an attention person, attention to - - -

Now you understood that the purpose of the vendor maintenance forms and they're dispatched to Santashi was to facilitate the payment of invoices that those two companies would in due course render to the hospital?---That's correct.

20

You never spoke to Professor Hacker about Medical and Clinical Informatics Consultants or Wish Consulting rendering invoices to the hospitals in relation to the trials did you?---I did.

When did you speak to Professor Hacker about that?---When the time of these vendor forms were going through, 'cause there was an agreement that was signed by Michelle for Wish Consulting with Johel Neiron outlining what she would be undertaking, because she wasn't present I took that along with me with the vendor forms and explained that's the payment where my payment's going to go through because the employment, I don't want to be employed, so I wasn't being employed so I will go through the vendor and I also took that for Wish Consulting to support the tasks that she'll be doing. He didn't question it once and he signed it.

30

Right?---You've got the originals. No, I'm just saying.

Sorry, are you asking me a question?---No, I'm just saying you might have the originals.

40

All right. Thank you. Now you understood the vendor maintenance forms were required to enable invoices rendered by those companies to be paid by the health service in due course?---Yes.

And where did you obtain the form from?---I cannot recall.

That's all right. It's your handwriting on the pages?---Yes, yes, no, no, no, I'm not, I'm not denying filling these out. I filled these forms out. I'm just saying I can't remember where I obtained these, whether they were faxed to

me or was it something that was provided or something that was available, I honestly cannot recall where this, but they are available very readily. It's not something that you need to search for, that's very difficult to search for.

Well then when you say they're available readily, readily from where?

10 ---Readily from the office. Just like the letterheads, the requisition, there's an accounts area. I know where they're from, sorry, I'm just trying to recall as I just went through it. There's a room in the Royal Women's Hospital, the mailing room, that's where all the books are all kept. That's where the internal, that's where the book went missing from. They couldn't locate it, it didn't go missing, they couldn't locate it, which they located afterwards. It had nothing to do with (not transcribable) it's just an internal thing. That's where these forms were kept. There's also voucher forms there if a book does go missing. Oh, no, that's Royal North Shore. Like there's all these other things, there's account keeping things. That room is like a mailroom. There's pigeonholes there as well. That's where these documents are all available.

20 Now do you see the facsimile imprint across the bottom of the page, if you turn it upside down? You'll see that it appears that the documents were transmitted on 11 July, 2008 at 16.16?---Yes, that's correct.

From the Gynaecological Cancer Centre at the Women's Hospital?---That's correct. Right after he'd signed it. Did you send these by fax to the accounts payable area?---Yes, that's correct.

30 Now just in terms of the signing of the documents we see your signature do we next to the words, requested by?---Yes, that's correct.

On both forms?---Yes.

At 104 and 105?---Where sorry?

At page 104 and 105, that's your signature on both pages?---Yes.

Thank you. Now having completed each of these forms, did you sign your name and date it before going to see Professor Hacker?---Yes, I did.

40 And did you provide each of these forms to him and ask him to sign them? ---Yes.

What did he - - ?---After I showed him, he didn't say anything. He looked at the, the contract outlining Michelle's tasks that I submitted with Wish Consulting, he looked at that. He took a moment to look at that. Then I told him that's the one that I'll be invoicing through. He had no questions about it and he signed it.

Now when you say that you showed him the document or the contract under which Wish Consulting would be providing some services, to what document are you referring?---That's the document I was mentioning earlier. That's the document that was prepared by Johel Neiron in a, in a meeting back in late 2007 outlining that Michelle would be completing the following tasks that he wanted her to complete at these hospitals.

So that was an agreement between Michelle or her company, Wish Consulting on the one hand?---Dr Neiron, that's correct.

10

Dr Neiron or the Medex Screen (Australasia) or Sydvat or both on the other. Is that right?---That's correct. And that was prepared for the hospitals that she will be paid through.

20

But that said nothing about whatever services Wish Consulting was going to be providing to the Royal Hospital for Women though?---No. That's what I'm trying to say to you, that was prepared for the hospitals, that these are the services Michelle will be providing to the hospitals and would be paid through the hospitals. He drafted, he drafted that letter with the tasks outlining, so the letter, the document outlined what she had to complete for each trial for the institution that the trial was being conducted at. So for example, at the Royal Women's Hospital, this document was to be presented that would have all the tasks written in it that she is to complete X amount of work for this hospital. And that was to be presented to the hospitals saying that's the agreement that Medex has put in place and have both Johel Neiron's signature on it and Michelle's signature on it to present it for the hospital. It was drawn for the purpose of the hospitals.

30

In any event you provided him with that document and each of the two vendor maintenance forms and you observed him looking at the forms and that agreement. Is that your position?---Yes, that's correct. Yes.

And you then observed him place his signature next to the words authorised by. Is that right?---That's correct.

And also date the form?---Yes, that's correct.

40

And having obtained his signature on the document it is your position that you then said as we've discussed each of these forms by facsimile as indicated?---Yes, that's correct.

All right. Now, pardon me, could I then refer please to an invoice at page 108 of the examination bundle from Medical and Clinical Informatics Consultants - - -?---Ah hmm.

- - - dated 14 May, 2008. Do you see that?---Yes.

THE COMMISSIONER: Are you going on to the Royal Hospital, this is still the Royal Hospital for Women is it?

MR ALEXIS: It is, Commissioner. Now - - -

THE COMMISSIONER: Before you do that I just want to say something to Ms Soars.

MR ALEXIS: Yes.

10

THE COMMISSIONER: Ms Soars, what I, I am, I've been thinking about your submission that Mr Alexis had misstated the evidence to Ms Lazarus to which she agreed. Now I don't, in case, it didn't occur to me that that had happened, but in case you did, I want to make it clear to you that I will give you the opportunity when Mr Alexis has completed his examination in chief at this stage of clarifying this with Ms Lazarus. And if that happens today you will have that opportunity today immediately after Mr Alexis has finished his examination. The reason why I'm telling you this now is so that I don't take you by surprise at the end and you've got time to think about it.

20

MS SOARS: Yes, Commissioner, thank you.

THE COMMISSIONER: Yes. Carry on.

MR ALEXIS: Ms Lazarus, can I just confirm that the invoice, a copy of which is at page 108 is one of a number of the invoices that you prepared and sent for payment to the Royal Hospital for Women?---Sorry. Can I just communicate with Ms Soars for a second?

30 Sorry? Does your communication concern my question?---No.

Well, Commissioner - - -

THE COMMISSIONER: I think - - -

MS SOARS: (not transcribable) an earlier question. I don't know what she wants to - - -

40

THE COMMISSIONER: What's the matter Ms Lazarus?

MS SOARS: Do you need a break?---Yes.

You're not feeling well?---No. I just need a break.

You need a break. Commissioner, I apply for a short adjournment.

THE COMMISSIONER: Yes. We're adjourned for three minutes?---Sorry. Thank you.

**SHORT ADJOURNMENT**

**[3.10pm]**

MR ALEXIS: Thank you, Commissioner. Ms Lazarus, before the break I was directing your attention to the invoice at page 108?---Yes.

10 And can I refer to that invoice (not transcribable) 14 May, 2008 for the purpose of asking you whether you prepared that invoice and submitted it for payment to the hospital?---Yes, that's correct.

And in so far as the examination bundle reproduces copies of other invoices for Medical and Clinical Informatics Consultants, should we understand that you both prepared and submitted each of those for payment to the hospital? ---Yes.

20 Now in relation to again this particular invoice by way of example, should we understand that the invoice was created by you on or about the date it bears, namely 14 May?---Yes, that's correct.

And is that the same understanding we should have with respect to each other invoice?---Yes.

In other words the Commission should understand that each invoice is prepared by you on or about the date that it bears. Is that right?---Yes, that's correct, yes.

30 And did you ordinarily send the invoice for payment shortly after its preparation?---Yes.

And in relation to this particular invoice you see that you've described screening equipment with respect to the trial and then these words, 50 examination tests. Do you see that?---That's correct. Yes.

And so should we understand that the invoice that was prepared on 14 May was seeking payment for the conduct of 50 tests up to that time?---I had finished 50 tests. Like I said I - - -

40 THE COMMISSIONER: I beg your pardon?

MR ALEXIS: I'm sorry, did you say you had finished?---Yes.

Right. So the invoice was intended to accurately state what it does, namely that there had been 50 examination tests conducted?---Conducted, yes. But that wasn't the fee for the 50 tests. So I have - - -

THE COMMISSIONER: Sorry? I beg your pardon, I didn't hear?---Sorry. I had completed more than 50 tests at that time, but the payment there is not for 50 tests. I know what it looks like and I realise that it says 50 tests, but I should have really said 10 tests. And that's what I'm charging for.

But you had already, but you say you had completed more than 50 tests?  
---That's correct. Including the 10 pilot.

10 MR ALEXIS: So by 14 May, you had according to your evidence completed more than 50 tests on 50 separate patients - - -?---Yes, including the 10 pilots.

- - - including the 10 pilot?---Yes.

All right. And again they were Professor Hacker's patients and Associate Professor Marsden's patients?---That's correct. Yes.

20 All right. And in relation to the further invoices, for example the further invoice at page 112, do you see that on 25 June you've rendered an invoice which again describes 50 examination tests, should we understand that by at least 25 June, according to your evidence a further 50 tests had been conducted on patients?---No.

Well, what should we understand the position in terms of the number of tests by 25 June?---My payment was for 1,500 per test. According to each invoice is for 10 patients. Because I had completed a certain number of patients, I had that in mind and that's the reason why I've written 50. Like I said before, it should actually say 10 patients, that's what I'm charging for.

30 And who was the arrangement that you've just referred to for payment with?---Johel Neiron.

So it wasn't with the hospital?---No. But this was communicated to Professor Neville Hacker.

What was communicated to him?---The amount.

Fifteen hundred dollars per test?---That's correct.

40 And the fact that that was what Dr Neiron's company or companies were going to be paying to you to conduct the tests?---That's, yes, that's what they were paying to the hospital for me to conduct the test.

I see. And you say Professor was accepting of that arrangement, do you?  
---That's correct.



All right. Now, in relation to the invoice at say for example page 110 from Wish Consulting, this is the first of I think a series of invoices from your sister Michelle's company?---Yes.

Did you prepare this invoice?---Michelle prepared this invoice in collaboration with me.

10 And what should we understand by your reference to collaboration?---Well, we didn't know what to write, we'd never prepared an, not to play stupid or anything like that but we'd never prepared an invoice before. I was unclear as to what to write in the invoice and then I was directed by the accounts department, because I made a query about how invoices, if I'm doing this test how should I prepare an invoice. I was informed that I should write goods and services because I'm providing services, that I should write that, that's the term and just write what the trial's about and the amount. So we followed that through all the way.

20 All right. So leaving aside perhaps - - -?---That's what I told her as well, sorry.

Leaving aside perhaps who actually typed the letters into the computer to generate the invoice, be it your or Michelle, shall we understand that both you and as far as you're concerned your sister Michelle completely understood not only the content of each invoice from Wish Consulting but - - -?---Ah hmm.

- - - but also understood the services that were there referred to as having been performed in relation to the tests?---That's correct.

30 All right. Thank you. Now the arrangement for the payment of, for marketing services, with who was that arrangement?---That arrangement, sorry, can you, can you repeat that, please?

Well, you've just told the Commission that you and your sister collaborated for the preparation of invoices from Wish Consulting in relation to the performance of marketing services?---Ah hmm.

40 With whom was that arrangement made?---That arrangement was made with Johel Neiron to provide those services and then that contract that was signed was sighted by Neville Hacker.

So is the position that according to your evidence Dr Neiron had agreed to pay Michelle's company for marketing services - - -?---That's correct.

- - - by moneys that were to be paid to the hospital?---That's correct because he said he cannot have any affiliation with the clinical trials at the hospital because it will, his exact words because he uses them a lot, it will jeopardise the integrity of the trial.

All right. And when you say that Professor Hacker was aware of all this, what, what was it that you told Professor Hacker about what it was that Wish Consulting was going to be doing and charging for?---Ah hmm. When I went to get the vendor forms completed I took that contract that was signed.

10 Ah hmm?---It was sighted and reviewed, looked at, I don't know, he didn't come back with any changes or anything like that nor did he make any comments at the time it was looked at by Neville Hacker.

All right?---And on, based on that he signed the vendor form for Wish Consulting and Clinical and Medical, Medical, Medical and Clinical Informatics.

Now in relation to the Wish Consulting invoices we know there's a series of them of course?---Yes.

20 Does the generation of each invoice and each subsequent invoice reflect further ongoing marketing work that was being provided in relation to the clinical trials by Wish Consulting?---That's correct.

All right. And tell me, who was it that determined the amount that was to be charged for the marketing services?---Johel asked Michelle and I to find out on websites and things like that all information as to how much these services will cost. We provided that information to him, he takes a long time to look at things, he looked at it very, very carefully. He, he came to a conclusion that Michelle would be paid this much and that was outlined in the contract that was put together - - -

30 All right?--- - - - by him for Michelle.

So the evidence is that he agreed for example to the payment of \$9,900 at page 114 for the marketing services referred to in that invoice?---That's correct.

All right. Now, back on page 107 is the first of a series of requisition forms?---Yes.

40 Now should we understand that the requisition form comes from a requisition book?---Yes, that's correct.

And in the requisition book is an original form together with a copy which is produced by the carbon in the copy?---Yes.

So that that carbon copy as we should call it - - -?---Ah hmm.

- - - is retained in the book?---Yes.

Now, did you complete the requisition form that we see at page 107 and the following forms at pages 109, 111, 113 and 115?---Yes, that's correct.

And by complete I mean all of the handwritten information on each of those requisition forms apart of course from the signatures of documents, the detail of which I'll come to?---Yes, that's correct.

10 So how were you able to complete by hand the information in the requisition form when it was part of the requisition book? How did you get the book?---Oh, it was provided to me by Helen. I asked her. I said how will I put a, like an invoice through. She said this is our book, you need to complete the form like - - -

So she handed you the requisition book, did she?---That's correct.

And you proceeded to then complete the five requisition forms that I've just identified?---That's correct.

20 And you did that, did you, that is to say in relation to each of those forms at about the same time?---Yes.

Or you did them simultaneously?---Yes.

You see that each of the requisitions that I've identified by a page number have a requisition number printed on it?---Yes.

30 And you know, no doubts because you've studied these forms, that they run sequentially from just adopting the last three numerals - - -?---Ah hmm.

209 - - -?---Oh, yes.

- - - to 213?---Ah hmm.

So we should understand that you completed the requisition form 209 and then 210 and so on and so forth. Is that right?---That's correct, yes.

40 Did you then proceed after you completed each of those to sign as the requisitioning officer and date the forms respectively 11 July?---Yes, that's correct.

Can I understand why you completed - - -?---Sorry, just one second.

- - - all of these requisitions at the same time?---Sorry, just one second, I haven't had a chance to look at it.

I'm sorry, please take your time?---Sorry. It's 107.

Sorry, Ms Lazarus, do you want me to identify each of the requisition forms?---Yeah, please could you run through them.

Certainly, I did, I'll try to move through it as quickly as I can, page 107, 109, 111, 113 and 115.

THE COMMISSIONER: And what precisely is the question, Mr Alexis?

10 MR ALEXIS: I wish to confirm that Ms Lazarus is responsible for all of the handwriting that we see on each of those forms excluding for the moment the signatures of the medical practitioners, the detail of which I'll come to?  
---Yes, that's correct.

Thank you. Now, where did you obtain the costs centre number that we see in the top right-hand corner of each of those forms?---I mentioned it, it was on the, in either the previous completed forms as well as in bold on some.

20 So when you completed these forms you had available to you the carbon copies that were retained in the book from earlier requisitions that had been completed, is that right?---That's right, yes, because when we went through the book how to complete it, that's Helen and I, she showed me that's how you do it and staple the invoice at the back. She was the one that showed me previously that room where everything was located.

All right. And in that requisition book there were carbon copies of prior requisitions that Professor Hacker had signed?---Yes.

And Associate Professor Marsden?---No, I can't remember, sorry.

30 All right. Now, the account code that you'll see about halfway down on the same line as the number 50 that you wrote under the word quarterly, where did you derive that account code from?---Which account code, sorry, that account code?

Do you see, just so we're clear with one another, the account code 1-7-0-4-0-3-1-0?---Okay. That part of the handwriting is not my handwriting and you can see that very clearly.

40 All right. So are you disclaiming any responsibility for the account code number that we see on each of these (not transcribable) forms?---That's correct.

Are you able to tell me who is responsible for writing the account code on these forms?---I have no idea.

When the forms were submitted, and I will come back to the signatures in a moment, was the account code written on each of the forms?---Which forms, the- - -

The requisition forms?---Forms that I've written?

Yes?---No.

So you lodged the requisition forms with the invoices for payment with the account codes blank?---Missing. Yes, that's correct.

Are you sure about that?---A hundred per cent.

10

All right. Now, after you completed each of the requisition forms- - ?---Ah  
hmm.

- - -how did you go about obtaining the signatures from the delegating  
officer and the authorising officer?---Um, I attached the invoice as I was  
instructed, with staples, and I took the book to um, Neville Hacker's room.

20

Ah hmm?---Um, he signed and in some cases you can see he actually filled  
out his name and telephone details and date, in some areas I have because  
he'd missed it for some reason, I have no idea why um, and he signed and  
approved it. And I did the same with Donald Marsden. In each case this is  
his handwriting where he's completed his name and signature and date.

THE COMMISSIONER: Which are the ones which you say you filled in  
and which are the ones he filled in?---Um, just his name. The signature is  
there. Um, that's number 14, sorry, number 113, 114, like the date- - -

30

What's on 113 and 114? What, what did he do on 113 and 114?---On 113  
he signed but I've dated and written his name but on 115 I've written his  
name but he's written the date and he's signed.

So you say the date on 115 is written by Professor Hacker?---That's correct.

But the date on, on 113 is written by you?---Is written by me. That's  
correct.

And 112, 111?---109 and 107 are completely, are complete with the name,  
the date, the telephone and signature all by Neville Hacker.

40

And on 111?---And on 111, where's 111, sorry? There's no, oh, I missed,  
sorry, I missed number, oh, it's all, the date again is him and the signature,  
just the name and the department is mine.

Sorry?---Sorry, I missed- - -

He has written on 111, he has, he has signed it?---Yes.

And what else has he done? He's put the date?---He's put the date.

His title?---No, I've written the title name.

I see. So he's, and the, and the name?---Ah hmm.

You put the name?---I put the name, yes.

I see?---But in each case Donald Marsden's completed all of it.

10 Donald Marsden's completed it all, you've completed nothing?---Nothing, nothing of his. The dates on those are not my handwriting. And the first, 107, 109 are completely completed by Neville Hacker, date, name, phone number, signature.

But the other ones you have written, "Director of Oncology", have you?  
---Yes, in two of them.

In two of them?---Yes.

20 That is 115, is that right, one?---Ah, it's 115- - -

And 113?---Yes. But the dates are not by me.

But 111, is that you?---111, the name is me, the date's not me.

And the title?---And the title's me.

Right?---And um, on 115 the date is not me, just the name and title, which I've just literally scribbled.

30 MR ALEXSIS: And, Ms Lazarus, did you write the words, "Director of Oncology", before or after Professor Hacker signed these requisition forms?  
---Um, I followed what he's written on page 109, "Director Oncology", which is on 109.

Ah hmm. That may be, but could you answer my question?---Yes, I wrote Director of Oncology.

40 After you'd seen Professor Hacker sign these requisition forms?---Yes, that's correct.

Right. Now, can I just confirm so that we are clear, that you attached the invoice to the original form of requisition and provided each to Professor Hacker to look at?---Ah hmm.

You saw him look at them, you saw then him, you saw him then sign each of those requisition forms and then hand it all back to you. Is that how we should understand it occurred?---That's correct. Yes, that's correct, because

he started filling it out from the start but in the end he just signed it and dated all of them. I- - -

And, I'm sorry?---So in the last three I have only written his, his title but he's signed and dated and- - -

And in relation to Associate Professor Marsden- - -?---Yes.

10 - - -should we understand that similarly the invoices were attached to the original form of requisition?---Yes.

Each was presented to him for signature. You observed him look at the documents. He then signed where we see his signature adjacent to his name as authorising officer?---That's correct. And he wrote his name as well, Deputy Director for all of them, as well as writing the date. He actually took a little bit longer in terms of looking at and reviewing everything.

I see. And did he ask you any questions about what they related to?  
---At no point at all. He knew what it was relating to, the clinical trial, but  
20 at no point either one of them questioned me in any way whatsoever as to the amount or what it was or anything in regards to the form. In the case of Neville Hacker, he um, started filling out, 'cause I left all of these blank, that's why the start ones have his writing in terms of writing director and writing his name. He even took the liberty of writing the phone number on the first one. By the time he got to the third one, I don't know, he just couldn't be bothered or whatever, he left all of these blank, wrote the date and his signature, wrote the date and his signature, wrote the date and his signature. I took the liberty of writing Director of Oncology and his name.  
30 Whereas Donald Marsden took the time to complete every single one.

Right. Now, if you could come through to page 117 of the Examination Bundle Exhibit 1. And we see there the first of a series of further invoices on which we see the handwritten words, "For the attention of Pauline", and other detail at the bottom of each invoice- - -?---Ah hmm.

- - -again in handwriting. Do you see that?---That's correct.

Now, is that your handwriting?---That's my handwriting.

40 Including the signature at the foot of the page?---That's correct.

And in relation to those that are marked for the attention of Pauline, is it similarly your handwriting at page 118 and 119?---One second. 118, 119. Yes.

And what was your purpose in annotating the invoice in handwriting, "For the attention of Pauline?"---The requisition book was not, I could not locate the requisition book. I asked the receptionist, oh, I can't locate it, and she

sent me elsewhere to look for it. Anyway, I came back, I couldn't find it. And she said, she then directed me to call the accounts department to chase up the book so I can put the invoice through um, at which point, whoever this Pauline person is that I've never met ever in my life, was on the other side of the phone. I asked her, I said, "The requisition book is, can't be located, what should I do with the invoice to be submitted?" Um, she said just fax, just write attention her name. Now, I have no idea who this person is in terms of last names or anything like that. And I said, "Well, I have to get authorisation." At which point I was told that they will be able to obtain  
10 authorisation, that I just need to write, write, "Goods received, received", again following instructions from previous um, requisitions and whatever instructions she gave me, "O.K. To pay", and she gave me, and the cost number obviously was available and what area and sign it through as the requesting person and all authorisation would be obtained. 'Cause I know for a fact that my signature cannot get anything through, so it's not that it was being sent with my signature as the authorising person, it was just as the requesting person.

20 So the handwritten content of the invoice at 117 and following is the result of a conversation you say you had with Pauline?---Yes.

And she instructed you or at least advised you that annotating the invoices in this way would facilitate the payment of them?---That's correct.

All right.---Well, the approval for the payment.

Absent the requisition book?---That's correct.

30 Now at page 120 there is similar handwriting for the attention of Stacey Linton.---Yes.

And also on the following invoices at 121, 122, 123.---That's correct.

Is your evidence the same in relation to that that you contact that person Stacey Linton and she, having explained the absence of the requisition book similarly informed you to write what we see as a result of that conversation on each of these invoices.---That's correct.

40 And did you then send by facsimile as we see across the top of page 120 and following each of these tax invoices on 11 August, 2008?---That's correct after getting, I don't know who this person is, just the person on the phone and the information was provided to me and I've done the same for approval.

And similarly if we look at page 124 where we have further invoices again for the attention of Pauline – should we understand that resulted from the same telephone conversation with her?---Not the one previous one, then I ring the next – in every case when an invoice was put through I did make



sure to call the person to see who I had to attention it to because at this stage, according to my understanding was that I'm signing as the requesting person and the approval their obtaining for the payments.

All right. So again the invoices at 124 were the result of a further conversation with Pauline. Is that right?---That's correct.

10 And similarly at 126 and 127 where we see here annotated the invoices with Stacey Linton's details and again other words at the bottom and your signature are a result of a further conversation with Stacey?---That's correct, yes.

And you then sent it by fax as the imprint indicates on 18 August. Is that right?---That's correct.

THE COMMISSIONER: Did she tell you to write in overdue?---Yes, that's correct.

20 And why, was it overdue?---Yes.

Why was it overdue?---Because I'd already completed the tests.

Doesn't mean that the payment is overdue though does it?---Yes, because the invoice is dated another date and - - -

Sorry, I don't understand.---She asked me to write overdue because it was overdue. I'm putting in August for services that were provided previously.

30 In March?---Yes.

Have you sent another, have you sent an invoice previously for the same services?---No, not the March - - -

So how could it be overdue?---We'd already provided the services so I would assume it would be overdue.

40 She tell you to write overdue?---I asked her, I said this invoice is for March, what should I write. So I followed the instructions to the letter in terms of what to write here.

And the ones with Pauline were they not in the same category there?---No, there were some not in the same category because even though they say a month or two later they're not as overdue so - - -

They're only a little bit overdue.---That's correct. Should write overdue on all of them.

MR ALEXIS: Now I just want to clarify one aspect of the Medical and Clinical Informatics Consultants invoices before moving on?---Ah hmm.

Do you recall earlier I asked you about the invoice at page 108?---One second, sorry. Sorry.

Page 108 and we discussed the reference to 50 examination tests?---Yes.

10 And you made reference to your arrangement with Dr Neiron being paid fifteen hundred dollars a test?---Yes, that's correct.

And you told me that 10 pilot tests had been conducted by that stage and many others?---That's correct.

20 So should we understand the 16,500, which you said it included fifteen hundred dollars worth of GST to relate to 50 tests in fact or some other number of tests?---Because I, in my mind I, because I had completed an amount of tests that exceeded 50. I had written 50, that's what I was trying to explain, in actual fact I should have written 10, not 50.

So why is it that you should have written 10 if you were to be paid fifteen hundred dollars a test?---Because that will amount to charging for 10 tests.

I see. So in relation to each of the invoices - - -?---Ah hmm.

- - - which refer to either 50 examination tests or refer to examination tests without any particular number, but nonetheless charged \$15,000 - - -?  
---Yes.

30 - - - we should understand each of those invoices as relating to the performance of 10 tests. Is that right?---10 tests, that's correct.

THE COMMISSIONER: Well why didn't you charge for 50, for all the tests you carried out?---I was just told to charge for 10.

40 Who told you that?---Johel Neiron. He sighted all these invoices. Every time I put an invoice through or every time I made a change I always went back to him. He told me to check everything with him that I do because he's conducted many clinical research trials and he was an owner of a huge company and he knows what he's doing and that I need to check everything with him.

So these 50 tests that one sees on the invoices, they're all, they're all different sets of 50? They're not the same 50?---No, no, no.

Different sets of 50?---Yes. They were different tests.

And so you never charged for 40 of them?---No.

And every, every time you did 40 tests for free?

MR ALEXIS: No, no?---No. I was still testing 10 at a time but that's what I'm saying, I should have written the exact number, 10, not 50. That's my error in there.

THE COMMISSIONER: I'm sorry. I don't understand. How many tests did you carry out in respect of each invoice?---10 tests.

10

But you put on 50?---That's correct. That's what I'm - - -

Why did you do that?---That's an error that I had, because that's what I was telling you, in my mind I had completed exceeding number of 10, 50 tests. That's why I was like, I have to write 50 down. That's my error. I've made that error.

I don't understand that. If you've only done 10 why in your mind - - -?

20

---No, no, I've done more than 10. That's what I'm trying to explain to you. I've done an exceeding number, a number that exceeds 50. But I've only charged for 10 in one invoice. But because I had completed that amount of tests, I had 50 in my mind then I've written 50. But I didn't charge for the 40. The next invoice I charged for the next 10, the next I charged for the next 10. But the 50, that full 50 lot was completed already.

So over what period did you carry out these tests?---About six, seven months.

30

How many did you do a month?---That would vary depending on how many patients Neville Hacker and Marsden had.

(not transcribable) from what to what?---In total I have completed between 150, around a 150 tests excluding the 10 pilot. So in total it would exceed about 160 tests.

Over six months?---Yes.

That's more than 20 a month?---That's correct.

40

So why didn't you charge for them?---I should have.

Well why didn't you?---It's just laziness I guess on my part in terms of charging.

I don't understand why you didn't charge for them?---I should have charged for them.

Why didn't you put the correct number of tests down on the invoices?---I missed that number.

Well why didn't you, I don't know what that means?---I, that's, I'm telling you - - -

You missed that number?---I keep on telling you that's my error. I put the wrong number down.

10 Well how do you come to make the same error month after month?---Oh, because that's copy and paste. The only thing I changed was dates and the invoice number until I noticed.

You noticed what?---That I'd written 50 down.

MR ALEXIS: So Ms Lazarus if the, is the position that with respect to the Royal Hospital for Women you conducted ten pilot tests on Professor Hacker's patients and Associated Professor Marsden's patients?---That's correct.

20

You conducted a further 150 tests - - -?---Ah hmm.

- - - approximately in relation to patients of those two medical practitioners?  
---That's correct, with my sister Jessica.

All right. You conducted those tests in the outpatients clinic at the Royal Hospital for Women?---That's correct.

30 You did so having obtained the patient lists of each of those two doctors from time to time?---That's correct.

So as to enable you to approach those patients and procure the tests?  
---That's right.

And when we look at each of the invoices from Medical and Clinical Informatics Consultants and we leave aside the particular reference to 50 tests - - -?---Ah hmm.

40 - - - we should understand that the \$15,000 charge relates to ten tests?  
---That's correct.

And so by maths we can work out simply enough how many tests in fact you charged for?---Ah hmm.

Is that right?---Yes, that's right.

And your position to this Commission is that you in fact conducted each and every one of those tests referred to in those invoices?---That's correct.

And in respect of each of those tests Wish Consulting provided some marketing services which was directed to the idea of procuring sponsorship funds to pay for all of your work?---Yes, but that was to do with Johel's company as well.

Yeah?---That's got - - -

10 And your position is that Professor Hacker - - -?---Ah hmm.

- - - agreed to the pilot tests proceeding and the further tests proceeding without any ethical approval?---That's correct.

And he approved you proceeding with those tests in circumstances where he understood that the hospital would not be incurring any cost for them?  
---That's correct.

20 Because, as you've said I think, all costs were to be covered externally by Mr Neiron's company?---That's correct.

THE COMMISSIONER: And when he knew that you hadn't got ethics approval?---Sorry?

And when he knew that you had not got ethics approval?---That's correct.

And did you, did you say that he also agreed to you charging for marketing services?---Yes.

30 And you'd be charging the university for that?---The hospital.

The hospital I beg your pardon?---Yes, because he said he's not going to pay either myself or Michelle through his company because it jeopardises the integrity of the trial. That's why we had to be paid through the hospital.

Professor Hacker you say - - -?---No, no, no, Johel Neiron.

I'm asking you about Professor Hacker?---Oh, sorry.

40 I'm asking whether Professor Hacker agreed that you charge the hospital for marketing services?---Yeah, because he sighted the contract that was developed by Johel and, and given to Michelle before he signed the vendor forms.

Is that, is that the only reason you say he agreed to that?---I guess so, he signed - - -

You didn't talk to him about it?---No, I talked to him about it. I showed him, I said this is the marketing for the clinical trial, these are the tasks that

are laid out, it outlines in the contract that the research institution must provide but will be billed for this.

And, and that the institution, the hospital must, will be billed and - - -?  
---Yes.

- - - the hospital must pay?---That's correct.

10 And did it explain on what basis the charge would be made that the hospital would pay?---That's correct and based on that he signed the vendor form and he signed the requisition.

MR ALEXIS: All right. Now before leaving the Royal Hospital for Women there is two other aspects I want to touch on. Could you come through to page 224 please?---Sorry?

224 of Exhibit 1. Did you receive this letter from Professor Walters on about Christmas Eve of 2008?---Yes, that's correct.

20 And did you subsequently have a meeting at the hospital that he presided over on 3 February, 2009?---Sorry? Sorry, can you repeat that?

Yes, after you received the letter were arrangements made for you to go to the hospital and attend a meeting with him and others on 3 February, 2009?  
---Yes, that's correct.

Now, at page 250 if you could look at that, please, there is a letter dated 2 February to the Department of Fundraising at the Royal Hospital for Women. Do you see that?---Yes, that's correct. In reference to the letter  
30 too - - -

Well, can I ask a question about it, please? Did you prepare and write, did you prepare the letter?---Yes.

And did you have your mother sign it?---Yes.

And in the letter did you intend to convey to the hospital that the company Complete Health and Medicine was sponsoring the clinical trial at the Royal Hospital for Women?---Was the sponsor? According to the letter, yes.  
40

Yeah, well, what you intended by the letter was to - - -?---Ah hmm.

- - - indicate to the Royal Hospital for Women that the company referred to, Complete Health and Medicine Pty Limited, was sponsoring the clinical trial for the Medex device?---That's correct, yes.

Yeah?---When the letter on page 224 came to me, that's the first time I was alerted that no funds had been given to the hospital to which point I

approached Johel Neiron and I said you didn't provide any funds and then it led to another conversation with William Walters in regards to what, what this, well, I called him and then he outlined to me what the issue was and that's when I became aware that no funds were put into the, into the hospital at which point I went to Johel Neiron and I asked him, I said there are no funds and I've charged the hospital. What, you know, what, what's happening? He told me there are internal affairs that are happening in Medex because he's been pushed out, a new CEO is stepping in and they're having all these internal arguments and all that stuff and that's how the payments became delayed which, which I had an argument with him and I told him, I said I was under the impression that after every milestone, after every two weeks you were to put in this much and, at which point he instructed that I pay back \$80,000 and I write a cover letter. I said why aren't you writing a cover letter? He said oh, he can't because they're having internal affairs, I'm to use one of my vehicles, write a letter, this letter I actually produced from, you know, research on the Internet in terms of writing a polite letter, write that the funds will be provided, that we made efforts in providing these funds and return the \$80,000 which he will reimburse then to me at a later date. He never reimbursed anything. In terms of this letter it was, it was accompanied with a \$80,000 cheque to the Royal Women's Hospital and the \$80,000 were paid back. I waited and contacted Johel Neiron, he did not get back to me in regards to this after this letter even though he, he, his excuse was that he, he's still trying to sort out the structure of the company and as soon as he does that the money will be reimbursed at which point I told him they want the rest of the funds back and what would you like me to do with that? He said he would take care of it as soon as he sorts out the issue with his internal company. I then, then had a meeting with William Walters in regards to returning the funds and this letter. In that meeting I outlined to him exactly what was - - -

Well, before we get to the meeting because I do want to ask you about that, can I just get a couple of things clear about this letter. Firstly, is your position that the content of the letter was the result of what Dr Neiron told you to write to the hospital?---That's correct, yes.

Because of funds not having been deposited?---That's correct.

And it was I think you said at about the time of receipt of Professor Walters' letter that as you would have it the first time you learnt - - -?---That's right.

- - - that no funds had been deposited in fact - - -?---That's correct.

- - - with the hospital - - -?---Yes.

- - - was December 2008?---That's correct.

All right. So is that the first time that you understood that in respect of the invoices that you'd submitted to the hospital for payment that by that stage had been paid - - -?---Yes.

- - - had come out of hospital funds in respect of which the hospital had received no reimbursement?---That's correct, that was the first time and that was in early January when I contacted William Walters' office as to the nature of the letter.

10 The other aspect of the letter I want to get clear is this: you see about the fourth line down you refer to a cheque described as the first cheque - - -?---Yes.

- - - drawn on 18 April, 2008, do you see that?---Yes, that's right.

Is it true that a cheque was drawn by Complete Health and Medicine on 18 April, 2008?---Well, like I was saying, Johel wanted me to write this in to show that efforts were made to put funds in.

20 Well, he may have, but my question was whether or not it was true to say that a cheque described as the first cheque was written to the South Eastern Sydney Illawarra Health Service on 18 April, 2008?---No, no. And to answer the next question, I - - -

So when you say no, are you saying it wasn't true to say that?---It wasn't true and the second part (not transcribable) wasn't true as well.

Well, why did you say it?---Because he instructed me just to show that efforts were made to put money in.

30 Ah hmm?---And no money was, and the hospital couldn't receive that money.

So was it similarly untrue that the second cheque referred to- - -?---That's correct.

- - - a few lines further down- - -?---Ah hmm.

- - - to the, "Go Research Fund"- - -?---Ah hmm.

40 - - - on 14 October, 2008, was not a cheque that was in fact drawn?  
---That's correct. Because he told me, even though I gave him the letter from Ravi Ratnam for the Royal Women's Hospital, he told me he put money in the other um, hospital research foundation, which was the Go Research Fund.

So we have two pieces of information, both of which you understand to be false?---Yes.



And based on what Dr Neiron told you to do, you contain that in a letter and sent it to the hospital?---That's correct.

I see. All right. Now, I did refer a moment ago to the meeting. Could you come to the notes of that meeting, please?---What page is it?

Yes, at page 252?---252.

10 Now, for present purposes, Ms Lazarus, what I wish to do is to ask you whether you've had a chance to read the meeting notes that were prepared following a meeting and signed as correct as you will see on page 260- - -? ---No, I haven't.

- - -by Professor Walters and Mrs Muffullo?---No, I haven't.

All right. Okay. Well, I might come back to that. Now, is it the case that you had two telephone conversations with Ms Muffullo on 6 February, 2009 and 4 March, 2009 from the hospital?---Yes, that's correct.

20

And there are transcripts of those off her notes of those conversations at page 263 and 264?---Yes. They're not transcripts, they're her notes.

Well, it's a transcript of her notes?---Notes, yes, sorry.

Yes. Have you had a chance to read those?---No, I haven't as yet.

All right. I'll come back to them then. Can I turn attention then to the Royal North Shore Hospital. And now, should we understand that you made an approach to Professor Ross Smith- - -?---Sorry, what page am I at?

30

We're not at any page at the moment?---Sorry.

Is it correct to understand that you made an approach to Professor Ross Smith with a request for him to become your primary supervisor in relation to PhD studies you were taking at the University of Sydney?---Yes, that's correct, 'cause he was the coordinator of um, the post-graduate coordinator.

And you learned that he held that position through the university, I take it? ---I was told to go get his signature for my re-enrolment.

40

Because you knew that you needed a primary supervisor to facilitate your re-enrolment?---Um, no. The primary supervisors were already established back in 2007 to be um, Hugh Carmalt and David Gilette and he was, I just needed the signature for the um, the coordinator.

So when you spoke to Professor Ross Smith for the first time about the subject of him being your supervisor, you understood that you were not enrolled at that point in time in a PhD degree at the University of Sydney? ---The first time I contacted him was to obtain his signature to re-enrol, 'cause you need the coordinator's signature on the application form to re-enrol.

Because you were then not enrolled?---That's right.

10 Is that right?---That's correct. And that's in 2000.

Thank you. And was the initial discussion you had with him in about August of 2008?---Yes.

And subsequent to that, did you then ask him- -?---Sorry, you said the first, can you please go back to the previous question, 'cause you said- - -

20 THE COMMISSIONER: The first question was, the first discussion you had with Doctor Smith was in August 2008?---Um, not for the coordinator, it was prior to that.

MR ALEXIS: All right?---That's why I wanted to just make sure.

Well, can I just then in light of that get your best recollection as to when it was that you first discussed with Professor Ross Smith him being your supervisor and you conducting or at least wishing to conduct clinical trials using the Medex device on patients of his?---Okay. Um, I had approached him for the, as a coordinator. Um, he reviewed all my work that I had completed, including all the patient files, all the data that was collected from these trials um, at which point he was to contact the university and things like that and he had my file brought to, my enrolment file brought to his office um, after which he looked at the, the protocols and what I had completed and then he came back to me and he said, "You should incorporate another, another section for, or another research in collaboration with this because it might not be something that solid, you might not be able to get a very large thesis out of this, so you should include the (not transcribable) as well", which he had been working on. And he gave me an article to go away and read which he was the co-author of. It wasn't published as yet. It was unpublished um, um, unpublished article. So I went away and looked at it and um, and um, looked, looked at it and um, then I came back to him and I said, "Yeah, that's fine. It looks something that we can do." He said, "Yeah. Again it's, the basis of it is exactly the same as Medex but in a more pathological manner, so you will be able to get more stable results." At which point then he said, "Then, then I can be your primary supervisor." Then he contacted the university or, or whatever measures were taken and I had to re-fill all my forms for supervision, at which point he became my supervisor and because the supervisor cannot sign an application form as the coordinator, I had to go to another professor

to get the signature as the coordinator, who was the head of department.  
And you've got the, ICAC have the originals of that.

All right. And it took some time for your application for re-enrolment to be considered?---That's correct. It was- - -

And whilst the application for re-enrolment was being considered, plainly enough you were not a PhD student in fact?---Yes, that's correct.

10 Right. Have a look at the document at page 128 and following, please?  
---A hundred and?

128 and following. Should we understand that you- - -?---I haven't even reached that 128.

128. Now, this was an application you completed, was it, for a security pass?---Just my name, my signature and that's it. Not where it says PhD student.

20 All right?---This, this pass was filled out on instruction of Professor Ross Smith who contacted the, the practice manager and sent me to the Kolling Building. She completed all the rest. Just my name and my signature's, that's mine.

So we should understand that only the section entitled Employee Section was completed by you and signed by you on 22 October, 2008?---Yes. And then my name and signature and date again, that's it.

30 All right?---This was from a phone call that was made to, by Professor Ross Smith to this who, this, this, the practice manager who accompanied me to the security office while I was getting my photo done and going through the security check.

And it was, was it the result of this form that you were issued with photograph ID badge?---That's correct.

THE COMMISSIONER: And the information that you were a PhD student didn't come from you?---No. That came from Professor Ross Smith contacting this lady.

40 How do you know that?---Because he made the phone call while I was there and sent me to her office. I was in- - -

And what did, and what did he say to her?---He said, "I'm sending a student, she's a PhD student and I'm sending her down for ID and access to the Kolling Building and general access. Can you please", whatever, to get that organised. And he told me to go to her office. He gave me the location of her office. He said it's on- - -

All right. Thank you.

MR ALEXIS: Your name and signature appears on page 129, does it?  
---129, yes, that's correct.

Now, page 130 and 131, do we have a Vendor Maintenance Form for your company that you completed and signed as the requested by person?---Yes, that's correct.

10

And did you prepare the typed form relating to the bank account details at page 131?---Yes, that's correct.

And similarly in relation to Wish Consulting on 132, did you complete the vendor maintenance form that we see there and also provide the banking details of that company as we see at 133?---Yes, that's correct.

20

Now, pardon me, where did you obtain the vendor maintenance forms that I've just taken you to from so as to complete them in the way that we see?  
---From the accounts department.

The accounts department where?---In the main hospital.

That's Royal North Shore Hospital?---That's correct. Royal North Shore, yes.

30

And from whom or from where did you actually get them?---The accounts manager. I went and saw the accounts department following the same procedure as to, to invoice the Royal North Shore Hospital.

And so - - -?---And the form was - - -

I'm sorry?---Sorry.

So at the time of completing the application for the security pass you understood that there needed to be the means by which invoices could be generated by your company and your sisters company?---That's correct.

40

And you sought out and obtained the vendor maintenance forms. Is that right?---That's correct. Yes.

You then completed them in the way that we see?---That's correct.

And had you completed and signed them before speaking with Professor Smith about them?---I'd signed them, yes.

And did you present each of these forms that we see at page 130 and 132 to Professor Smith?---Yes, that's correct, including that contract for marketing again.

Sorry, what contract for marketing?---That contract that I told you about before. That was - - -

This was the one between Wish Consulting and Mr Neiron's company?---Johel, that's correct.

10

That you said to me earlier you showed to Professor Hacker?---That's correct. And the same one was shown to Ross Smith outlining that the billing will go through, go to the Research Institution.

All right. Now after you provided Professor Smith with each of these vendor maintenance forms and the contract you've just referred to, did you see him do something with the forms?---Yes, that's, I did.

What did he do?---He looked through the contract.

20

And what did he do then?---And then he signed these - - -

Signed each of these two forms?---That's correct.

And you say that he signed them as we see adjacent to his name as authorised by on page 130 and 132. Is that right?---That's correct.

30

And having obtained his signature did you then send these forms from the facsimile machine at his rooms on 22 October? You see the imprint across the top of the page?---Yes, that's correct. Yes.

And you sent them directly to the accounts payable section of the Area Health Service. Is that right?---That is correct. Yes.

Now could I ask you to look at page 136 and did you similarly complete the vendor maintenance form for Complete Health and Medicine that we see on that page?---Yes, that's correct.

40

Similarly the bank account details that we see on 137?---Yes, that's correct.

And did you provide this form to Professor Smith for signature at the same time as you provided the other two forms that we've just referred to or on a separate occasion?---The same occasion, yes.

Sorry, did you say the same occasion?---The same occasion.

If you look at the date adjacent to Professor Smith's signature at 136, Ms Lazarus, you'll see that it's the same date adjacent to his signature that appears on page 130 and also on 132. Do you see that?---Yes.

So is your evidence that you presented him with three vendor maintenance forms and he looked at each of them together with the contract you referred to - - -?---Ah hmm.

- - - involving Wish Consulting and Dr Neiron's company?---Yes.

10

And he then proceeded to sign each of the three forms?---The dates that are by me are my dates. But if you look carefully again, I'm just saying the date on, on page 130 is whoever this C Robert person is on the 27<sup>th</sup>, for processing, 'cause he signed up there next to Ross Smith instead. So I don't know if that date - - -

Well let's be clear about it. You see the line adjacent to the words authorised by?---Which, on which page now?

20

Well let's be clear, page 130. Is that where you are? I thought you were directing me to the date on 130?---I was, sorry, yes, 130.

Thank you. You see the line authorised by?---Authorised by, yes.

And adjacent to the words name/title we have the name Professor Ross Smith?---Yes.

And underneath that we have a signature don't we?---Yes, that's correct.

30

Is that as you would have it, Professor Smith's signature?---That's correct.

And the date 22 October, 2008 is adjacent to Professor Smith's written name isn't it?---The 22<sup>nd</sup> of the 10<sup>th</sup>?

Yes?---Yes, that's correct.

And that was the date that I was referring you to when I was indicating that each of these forms seem to be signed by Professor Smith on the same date, namely 22 October, 2008?---Yes.

40

So does the fact that all those three forms bear the same date assist in confirming that Professor Smith signed each of these three forms at the same time?---That's correct.

All right. Thank you. And after obtaining his signature on this form, that is to say the Complete Health and Medicine form at page 136, did you similarly send that to the accounts payable section of the Area Health Service?---Yes, that's correct. Again to Rachael .....

And was that on or about 22 October, 2008 or at some later time?---Roughly around the same, I sent these two, I can't recall this one, sorry. To answer truthfully, I cannot recall that one.

All right?---These two I have sent.

Now at page 138 you appear to have completed at least a part of an application for computer network access for the hospital. Do you see that?

10 ---Yes, that's correct

And should we understand that you've completed the personal details above the heading, Department Head Sign Off. Do you see that on page 138?

---Yes, my personal details. Yes.

And underneath that heading you'll see that it appears Professor Smith has signed and dated the form 22 October, I'm sorry, 2008. Do you see that?--- And, yes, with his extension number, yes.

20 Now you wrote the words Medical Researcher (PhD student)?---That's correct. Exactly.

But your position was at the time that your application for re-enrolment was pending?---That's correct. On his instruction and his, him calling and getting my security passed and titled as PhD student, student, it appears PhD student.

So what you're saying to the Commissioner is that the representation on the form that you were then a PhD student was the result of something

30 Professor Smith told you?---That's correct.

What, he said to you was it that re-enrolment was just a mere formality or something to that affect?---Yes. But that's because he called up the, the practice manager for the Kolling building to organise my security pass. When he called her he referred to me as the PhD student and that's what appears on the security badge as well. And that's the reason why she's written PhD student. I did not know who that, she was until (not transcribable) call her.

40 So did the photographic identification badge have on it adjacent to your photograph, not only your name but the fact that you were a PhD student?  
---Yes.

Now - - -?---And - - -

Yes?--- - - -Mr Ross Smith's department.

I see. Where did you obtain the form for computer network access which you've completed at 138?---The practice manager, the person who Professor Smith called, she sent me to level 7 and that was all, that form was given to me from level 7.

Level 7 of what building?---The Kolling building.

All right?---And she asked me to complete that form and get it authorised and bring it back.

10

And that having been processed authorised you or at least provided you access to the various systems that we see set out on the bottom of page 139. Is that right?---That's correct.

And it also provided you in particular with access to the Oracle Financial System?---Yes, that's correct.

20

Did you place the crosses adjacent to each of the areas of proposed access that we see down the right hand column on page 139?---Yes. I was told to cross all of them.

Told by who?---By the person at the reception desk on level 7. She takes care of all the students. That's what I was told.

What she told you that you needed to have access to everything including the Oracle Financial System did she?---Actually, these are not my crosses.

30

I see?---I don't cross like that. And that includes the crosses that say yes, no. I don't write like that, sorry.

So is your position that someone else has completed the second of the four page form which - - -?---Yes. That's their practice.

40

Can I just finish my question. Is your position that someone else has completed this four page form after you had signed it on the first page and completed the detail on the third page at page 140?---Yes, because I wasn't sure what parts I have access to and what parts I don't have access to so she's the one - I don't even know what Group wise or network account is and I don't even know, I didn't know what the abbreviations of CB or RD or whatever that is in terms of this part I questioned and queried about because I didn't know, she did it as exactly standard that she does. If you are implying that I filled this out - it's not filled out by me. If you go and have a look at other students who have filled out this application forms and have assistance exactly the same costs will be in all these areas.

So you're telling me Ms Lazarus on page 139 you were not responsible for any of the crosses?---That's correct.



And on page 140 - - -?---(not transcribable) stands for.

All right. I'm just wishing to understand your position Ms Lazarus. So on page 140 did you complete the details there?---Yes, to the best of my ability.

All right. ---The rest I didn't know, I left it up to her, like I said, I filled whatever I could the rest I gave to her, she couldn't be bothered filling out the last page.

- 10 In the result however, you did get access to the computer network system - - -?---Yes, which you'll find I never accessed, not even once. If you go to records and have a look at computer records every time – apparently I've been told that someone does log in all the log in gets stamped – if you go have a look and ICAC has a look at who's stamp it is you will notice that not even once during my time at the Royal North Shore have I ever accessed the network.

Just on the subject of computer access do you also see the form at page 142 - - -?---Yes, that's correct.

20

This was a form for email and internet registration that you completed. Is that right?---That's correct.

And are you responsible for all the handwritten detail that we see on that form above the line post-graduate research students.---That's correct.

And did you present this form together with the vendor maintenance forms to Professor Ross Smith for his signature?---That's correct.

- 30 And what did he do with this form?---He signed it.

And he signed it in your presence?---Yes.

All right.---All those were signed in my presence.

Thank you. Now perhaps I could complete Commissioner the subject matter of application forms, could we move to page 146 Miss Lazarus and do we see there an application in similar form to earlier - - -?---146.

- 40 Page 146.---146 is missing.

MISS SOARS: Missing in mine too.

THE COMMISSIONER: Missing in mine too.

MR ALEXIS: It seems like I'm the only, can we persevere with what's on the screen, it should be before you there, Miss Lazarus.---Yes.

And if we scroll down the form do we see that a form in the same terms as the earlier one we've examined also appears to have been completed but with the name Michelle Lazarus, do you see that?---That's correct.

And did you complete that?---Um, the written part, yes, apart from her signature and date which can clearly be seen.

So we should understand that you've completed by hand the personal details of your sister - - -?---That's correct.

10

- - -and your sister has signed as the applicant at the foot of the page and has also dated it. Is that right?---That's correct.

Okay. So was your sister with you when you were at the hospital and had these forms completed or how did it come about that the form was completed for Michele and she signed it?---I'd gotten the forms and I filled it out and she was to have - she should have filled it out herself but nevertheless, it was given to her and then she was to have a - she was having a meeting with Gil Burton so during that meeting with Gil Burton she had obtained his signature and her signature.

20

I see. So the position is that you obtained the form, you filled out the personal details that we see on page 146 when a copy is provided to everyone and she then had possession of that as you understood it, spoke with Professor Burton - - -?---That's correct.

And then having had that discussion what then happened with the document, did it come back to you or did she do something with it? ---No, um, she um, she goes I don't know where to submit this. And I said, that's fine I'll submit it for you so.

30

All right. So when the document was - - -?---Which she brought to me - - -  
- - - completed - - -?---Yes.

- - - and she provided it to you for submission - - -?---Yes.

- - - did it contain Professor Burton's signature on it as we see on the screen in front of you?---Yes, but she (not transcribable)

40

So she had already attended Professor Burton and had obtained his signature?---Yes.

Did it also have her signature, that is Michelle's signature?---That is Michelle's signature.

All right. On the second page of that document, 147 and I think is in the bundle, did the document contain the crosses that we see in terms of the

extent of access?---Yes, that's an exact copy of the crosses that were done on mine, I've just replicated those crosses there.

Was page 148 similarly completed?---Yes. Sorry, which page?

148, the next page?---Yes.

You should be back in your bundle now, Ms Lazarus.

10 THE COMMISSIONER: Sorry, 147, did you, did you put the crosses in on 147? Is that what your evidence was? I wasn't sure what you were saying? ---Yes, that's correct.

MR ALEXIS: So - - -?---That was just a copy of whatever was done on mine and again if you have a look at Internet or - - -

THE COMMISSIONER: That's all right, I just wanted to ask that question.

MR ALEXIS: Now, one - - -

20

MS SOARS: Commissioner, could - - -

MR ALEXIS: I'm sorry.

MR ALEXIS: - - - could you just ask that question again because I don't, if you ask was that your evidence I don't think you could ask the question - - -

MR ALEXIS: Could I deal with it, Commissioner?

30 THE COMMISSIONER: Yes.

MS SOARS: Thank you.

MR ALEXIS: Ms Lazarus, just for absolute clarity, is your position that having completed the personal details you also completed the crossing of boxes on page 147, completed the information on 148 - - -?---Ah hmm.

- - - provided the document to your sister who then attended Professor Burton, is that right?---That's correct.

40

She procured his signature on the document?---Yes.

She signed it herself?---That's correct.

The form of document was then submitted by you back to the Kolling Institute, is that right?---In terms of submission, I'm, I'm a little bit unclear whether I was with her or not. It wasn't submitted on the same day, I know that for sure.

All right?---And again if you have a look at Internet access and again all logs get stamped you will see not even once did Michelle ever access the hospital network for any of these things that she was given privilege of.

Can I ask why it was that access was sought on behalf of Michelle to the computer network system of the hospital?---This is for email registration, she needed email access and she voiced that to Gil Burton as to what her position was in that meeting, who she was and that she needed email access.

10

Now at the time this form was - - -?---To send letters to responses and things like that.

Thank you. At the time the form was completed - - -?---Yes.

- - - by you and before she took it to Professor Burton, did you understand that Michelle was enrolled as a PhD student at a university?---She took too, she too had taken steps in terms of enrolment and written up a protocol for submission which you have a copy of, the ICAC has a copy of, and procured a, a supervisor.

20

THE COMMISSIONER: So your answer's no?---No.

She wasn't a student?---She wasn't a student but again following the exact same protocol that previously I had followed.

MR ALEXIS: But you're not suggesting that Professor Smith had something to do with - - -?---No, no, no, no, no.

30

- - - Michelle being described - - -?---Not to do with enrolment.

Let me finish, please. You're not suggesting that Professor Smith had anything to do with you describing your sister as a PhD student?---No, no, no.

All right. Thank you. Commissioner, I see the time. We are not to the point that I anticipated. I regret that but I hopefully - - -

THE COMMISSIONER: Perhaps you'll catch up.

40

MR ALEXIS: - - - examine, well, I certainly will try. I hope the examination has assisted in at least understanding Ms Lazarus' position and I'm happy to continue if that's what you would prefer but - - -

THE COMMISSIONER: I think that we should stop - - -

MR ALEXIS: - - - we have had a long day.

THE COMMISSIONER: and permit Ms Soars to ask whatever questions she wants if she wants to ask any questions.

MR ALEXIS: Thank you, Commissioner.

THE COMMISSIONER: Just on, just on that issue where you suggested that Mr Alexis had misstated the evidence.

10 MS SOARS: Commissioner, having looked back at my notes and there was some to-ing and fro-ing in the evidence, I think I would do it more justice if I could put the question tomorrow and review the transcript overnight and -  
- -

THE COMMISSIONER: Well, you can do that.

MS SOARS: - - - with your leave.

20 THE COMMISSIONER: Yes, very well. I think the witness should be regarded as a witness under cross-examination. You understand that I mean?

MS SOARS: I do.

THE COMMISSIONER: Yes, very well. This Commission will now adjourn.

**THE WITNESS STOOD DOWN [4.30pm]**

30

**AT 4.30pm THE MATTER WAS ADJOURNED ACCORDINGLY [4.30pm]**