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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 THURSDAY 17 FEBRUARY 2011

AT 10.05AM

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.

MR ALEXIS: Thank you, Commissioner. I call Dr Kenneth Vaux.

THE COMMISSIONER: Ms Furness, you're appearing for, appearing for Dr Vaux?

MS FURNESS: I'm appearing for Dr Vaux and make an application to a section 38 on his behalf, Commissioner.

10

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

20

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

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

MR VAUX: Oath.

THE COMMISSIONER: Please swear Dr Vaux in.

MR ALEXIS: Thank you, Commissioner. Sir, is your full name Kenneth John Vaux?---That's right.

And sir, could I just confirm that I'm pronouncing your surname correct?
---(not transcribable) French for Vaux.

10 Vaux. Thank you. I'll take that up with Mr Mullins in due course.

MS FURNESS: It's my fault, Commissioner.

MR ALEXIS: That's acknowledged. Thank you. Sir, is your professional address Suite 603, 20 Bungan Road, Mona Vale?---That's correct.

And you are the current departmental head for the Department of Urology at the Royal North Shore Hospital?---That's correct.

20 Thank you. In this matter I think you've provided ICAC investigators with two written statements. Is that right?---That's correct.

The first is dated 24 August, 2010 and more recently a further statement on 11 January, 2011?---That's correct.

Thank you. Could I show you copies of each of those two statements please. Would you firstly confirm that each of those statements are the ones that I have just referred to?---I believe so.

30 Thank you. And, sir, are the contents of each of those statements true and correct to the best of your ability?---They are.

Thank you. Commissioner, I tender each of those statements from Dr Vaux.

THE COMMISSIONER: The statement by Dr Vaux of 24 August, 2010 is Exhibit 20 and the statement by Dr Vaux of 11 January, 2011 is Exhibit 21.

40 **#EXHIBIT 20 - STATEMENT BY DR KENNETH VAUX DATED 24 AUGUST 2010**

#EXHIBIT 21 - STATEMENT BY DR KENNETH VAUX DATED 11 JANUARY 2011

MR ALEXIS: Dr Vaux, do we see in paragraph 5 of your statement, Exhibit 20, details of your professional qualifications and experience?

---That's correct.

You've been a specialist urologist since 1985, is that the case?---That's so.

And, and should we understand your association with the University of Sydney in terms of your lecturing and other duties set out in paragraph 6 of that first statement?---That's correct.

10 And we should understand that you hold no formal position or appointment with the university?---Correct.

Now in paragraph 7 of your first statement you tell us that you've been involved with a number of research projects relating to urology and prostate cancer. That's the case?---Yes, that's right.

20 And over what period of time should we understand that involvement to have occurred?---That is more recent, we have currently a database on prostate cancer at the Royal North Shore which we are developing so it's really been only, that's, that part of my interest has only been current for the past two or three years.

Thank you. I just wanted to understand that in light of what you've said in paragraph 8 of your statement wherein the last sentence you tell us that you were not involved in any clinical trial projects at the hospital between 2007 and 2009?---That's correct. There was no clinical trials as such.

30 So what you've just spoken of relates to trials that have occurred after that period?---There weren't trials, it's a, it's a database to, to look at outcomes et cetera.

I see. And that statement in paragraph 8 about you being not involved in any trials during that period, is that a statement you make in relation to Ms Lazarus or indeed anyone?---Anyone.

Thank you.

THE COMMISSIONER: Can I just understand this, Dr Vaux, do you distinguish between research projects and research trials?---I do.

40 Yes.

MR ALEXIS: Now, I need to clarify something in paragraph 9 and following of your first statement. You see you open paragraph 9 by telling us that you had only met Ms Lazarus twice?---That, that's correct.

And throughout paragraph 9 you refer to a telephone communication with her towards the end of 2008?---That's correct. She rang me to try and arrange a meeting.

All right. I'll come to some detail but if you just jump down to paragraph 11, you introduce an occasion that you say was early 2009 where you met Ms Lazarus as the second time, do you see that?---Exactly.

So, and then further on in your statement you don't seem to refer to any other occasion?---There has been no other occasion.

10 So just coming back to the opening words of paragraph 9, where you say there you've only met Ms Lazarus twice, how should we understand that in light of what you've said in paragraph 11 about meeting her and seeing her only once in 2009?---I met her in, I met her in 2008, in the second half of 2008 after the telephone call and I met her a second time in the first half of 2009.

So the telephone communications is not part of that meeting?---No, no.

20 You met her separately on two occasions?---The telephone occasion, the telephone conversation was for her to arrange to meet me personally in 2008, the second half of 2008.

Thank you. Now in relation to the telephone call do you recall what it was that she said to you about herself during that conversation?---She didn't say much about herself, then she said she was a student and she was wanting to do some research on prostate cancer and could we meet and I said, fine. But at the meeting, that was a different situation.

30 I see. Now could you come through to paragraph 21 of your first statement and what I'm seeking to do Dr Vaux, is to try and step you through the events that occurred in chronological order if you follow. In paragraph 21 you tell us that Ms Lazarus told you that she was a medical student at the University of Sydney and was undertaking post grad studies either a PhD or a Masters. Do you see that?---That's correct.

So when in relation to the two occasions when you actually met does that refer to?---The first one.

40 And you then go on to say something about your reaction to what she said she was proposing in terms of her studies in paragraph 21. And then in paragraph 22 you say that she never informed you who her supervising academic or professor was. Do you see that?---I do.

Now - - -

THE COMMISSIONER: Sorry, Mr Alexis. Do you mind just sitting a little bit back from the microphone, there was apparently a cause of echo.

MR ALEXIS: I thought that was me, Commissioner.

MS FURNESS: Commissioner, just while there is a break, could the witness be made aware that he has copies of his written statement, he isn't reliant solely on the screen. It might easier.

THE COMMISSIONER: Yes, thank you.

10 MR ALEXIS: Now Dr Vaux, I want take you to your second statement just for a moment and ask you to go to paragraph 27. Now in this part of your second statement you are referring to an occasion when you were provided with a document and you signed the document and I'll come to some detail of that in a moment, but could we just focus please in paragraph 27 on the second sentence where you refer to Ms Lazarus telling you something concerning Professor Smith. Do you see that?---I do.

Now in relation to the two occasions you've referred to where you actually met on which occasion was that?---The, I didn't quite understand your question.

20 Let me put it again. In relation to the two occasions that you've told us that you actually met with Ms Lazarus which occasion was it that she told you that Professor Smith was going to be her supervisor for her PhD?---In actual fact it was the first meeting. I, when I had that first meeting with, with the ICAC investigators I couldn't remember those details, but having seen that second or the, the application for a post graduate degree that's in the evidence here, I was able to recollect that in fact she had told me that Professor Ross Smith was going to be her supervisor.

30 So if we were to just go back to paragraph 22 of your first statement and have in mind what you've said in paragraph 27 of your second statement and what you've just given evidence of, we should understand what about whether or not she identified Professor Smith as her supervisor?---She did identify Professor Smith as her supervisor.

And that was in the first meeting?---The first meeting I had with her, yes.

Thank you. Now in paragraph 11 of your first statement you refer to the occasion where in early 2009 you met Ms Lazarus at the cafeteria with a colleague, a Dr Rosaiah. Is that right?---Rosaiah.

40 Rosaiah. Thank you. Could you assist us with the location of the cafeteria at the Royal North Shore Hospital?---It's on the ground floor.

Of which hospital?---Royal North Shore.

The public or the private?---The public.

Thank you. And your department, where is that located?---We have no, we don't, we're office-less.

All right. Well, I'll come back to understand that a little later. Now, again, so the occasion you refer to in paragraph 11 when you and your colleague met with Ms Lazarus, was that the first or the second occasions that you're referring to?---It was the second occasion.

10 All right. So the occasion where there was reference to Professor Smith and you signed a document was the first occasion when you were on your own. Is that right?---Exactly.

Thank you. In paragraph 12 of your first statement you tell us about Ms Lazarus outlining a proposal for clinical research trials and shall we take it that because you there refer to your colleague, that occurred at the second of the two meetings?---Exactly.

20 And we should understand that to be the last meeting?---(NO AUDIBLE REPLY)

Now, in either of the two meetings were you shown the Medex device and have it explained in terms of how it worked?---I did not see the Medex device.

Either at the meetings or at any other time?---Never.

30 Were you provided with any written information, whether medical literature or any other document concerning the use of the device and the operation of any trials?---I was not.

Were you provided with any document called a proposal or a protocol or other document containing information as to how a clinical trial would be operated?---Ah, no.

40 And so it's been suggested in some evidence that has already been given to the Commission, and I have in mind particularly page 277 of the transcript at about line 38, and that's just a reference, sir, for the Commissioner, that Ms Lazarus met with you on several occasions, and by several, we should understand that to be a number exceeding ten or 12 occasions where you and she met either with or without a colleague of yours at the cafeteria. Does that accord with your recollection of your meetings with her or not? ---It does not.

Now, moving to paragraph 17 of your first statement, you speak there about a meeting during which your colleague was present where she produced a document for your signature. Do you see that?---I do.

Now, on which meeting was that where you refer there to the production of a piece of paper that she asked you to sign?---The second.

And in paragraph 18 you express a belief about the purpose or the object of the document. Do you see that?---Yes.

And can I ask why when you prepared your first statement you had that belief about the purpose or object of the document you were asked to sign? ---The document had been a method, a scientific method.

10

Ah hmm. And what do you mean by that?---It was talking about statistics and how many patients were to be collected and how the results were going to be analysed. It was a very short, a one-and-a-bit-page document.

And was that part of the piece of paper that you refer to in paragraph 17 or was it part of some separate stand alone document or what?---That's all it was.

I see. Now, did you sign that document as you tell us in paragraph 17?---I did. And this was the first time that you'd met her?---The second.

I'm sorry, the second time.

THE COMMISSIONER: Just so I'm clear on this Dr Vaux, where did you meet her the first time?---In the cafeteria.

And the second time?---Yeah. We have no office.

Yes, but the second, so the second, the second time was with Dr Rosaiah, the first time was alone? The first time was, so the first time - - -?---(not transcribable)

MR ALEXIS: Now, Dr Vaux I wish to show you Exhibit 13 in this inquiry. Sir, could you take a moment to examine the document which is of five pages and once you've done so could you have the fourth page of that five-page document open in front of you. Have you had a chance to consider the document, sir?---Yeah.

Thank you. Now, on the fourth page of that document you'll see the particular page I have in mind up on the screen just for clarity. We see a signature adjacent to the typed word "supervisor" together with what appears to be a date of birth and the word "urology, RNSH", do you see that?---Yes.

Is that your signature - - -?---(not transcribable) my signature.

- - - and your writing in relation to the date of birth and department location?---(not transcribable)

Now, you deal with the occasion when you came to sign and write on this document in your second statement at paragraph 26 and following. Perhaps starting at paragraph 25. Just, now in paragraph 27 you tell us that the signing of this document was on the occasion when she told you that Professor Smith was her supervisor so we should understand that as the first meeting. Is that right?---Exactly.

10 Now, could you please explain the pressure that you refer to in paragraph 27, you see you say I felt pressured to sign the form. What should we understand that to be referring to?---Well, she gave me a form which I hadn't, you know, which I hadn't seen before and she asked me to sign it. This is as a supervisor. I would have preferred to have considered it but she put pressure on me to sign it there and then.

Well - - -

20 THE COMMISSIONER: Saying what?---Saying that I would just be a supervisor in the - - -

But why, what, how did she put pressure on you?---Oh, can you sign it now.

What I don't understand is why you signed it as supervisor when you were told that Professor Smith was going to be the supervisor?---Well, I, I had not seen this whole document. I hadn't, I was not aware that this was an application for admission to a research post-graduate award course.

But the whole document I take it was put in front of you?---No.

30 No. Just a page?---This page was - - -

It's the only page that was given to you?---Exactly right, I did not read the whole document.

Were you given the whole document?---I, I, as far as I can remember, no. I, I was given this (not transcribable)

A single page?---This was, this page was shown to me.

40 Just one and - - -?---And I looked at it, head of department's signature and - - -

But it's, it's got, you've signed next to supervisor, Dr Vaux?---That's right, supervisor for her, to do her research.

But I thought that she said that Professor Smith was going to be her supervisor?---He was going to supervisor her degree, but - - -

You were going to supervise the research?---The research.

And you agreed to do that?---(NO AUDIBLE REPLY)

MR ALEXIS: Dr Vaux, did you read the printed words on the page on which you signed before you signed it?---I, I did not read all of it, no.

10 Well can you identify what parts of the form you did read as best as you can recall?---Head of Department and the supervisor. I was signing this as a supervisor of a research project. That's what I, that was my impression at the time.

Right. So why was it that when Ms Lazarus asked you to sign it, you didn't say to her come back to me and, when the form has been completed by Professor Smith and then I'll look at it and sign it?---In retrospect probably I should have done that, but at the time she's told me, Professor Smith who I've known for 30 years, and that he was going to fill in the rest of it.

20 And can I ask whether or not either before or shortly after signing this document you had any communication with Professor Smith to have confirmed that in fact he was supervising her PhD studies?---No. I haven't seen Professor Smith for some time.

THE COMMISSIONER: Did you understand your signature to be a supervisor of PhD studies?---No.

Supervisor of what?---Oh - - -

30 MR ALEXIS: Now Dr Vaux after you signed this page what did you do with the piece of paper containing your signature?---I wasn't, Sandra Lazarus took it.

I see. Now it's been suggested sir, that in evidence in this, before this inquiry that you were last to sign this document, not at the first meeting in the cafeteria but at a subsequent meeting of which is it said that there were many. What do you say about that?---I say that's untrue.

40 And it's been suggested that at the time you were asked to sign the form you had already been shown at least a few patient graphs after showing you the protocol for the trial and providing you some other details concerning the Medex device and after discussions about ethics applications. What do you say about that?---I say that's untrue. All of it is untrue.

Can I note for future reference page 278 of the transcript lines 20 to 34 which that material is recorded. Thank you, doctor. Now can I ask you some questions about Human Research Ethics Committee approval. And could I show you what respect the examination bundle Exhibit 1 opened at

page 151 and sir, could you look at the document at the page I've indicated?---151?

151. Thank you. You'll see the document is addressed to the Hospital, Human Research Ethics Committee. In the second paragraph - - -?---I can't find it. Oh, here it is. Yep.

Just, just check on the screen, sir, to make sure that we're looking at the same document?---I think so. Yeah.

10

THE COMMISSIONER: You have the screen in front of you?---Yep.

And do you see in the second paragraph of the document there's a reference to a number of professors and doctors including yourself?---Ah hmm.

And there's provision at the foot of the page for your signature?---Yes.

MR ALEXIS: Now, were you ever provided with this document by Ms Lazarus at any time?---Never.

20

And could you look, please, at the national ethics application form that commences at page 153 and could you take a moment just to leaf through that application form. At 193 you'll see the site-specific assessment form which continues through to page 204. Would you look at that as well and I'm going to ask you whether or not you'd ever seen that draft application before from Ms Lazarus?---193?

THE COMMISSIONER: 193.

30 MR ALEXIS: The site-specific assessment form is at 193 to 204?---194?

Through to page 204?---No, I've never seen any of this.

And what would you say to the suggestion that the two applications in draft that I've just asked you to leaf through was provided to you and you were asked to respond with comments but you never did?---I never saw any of this material.

40 And may we take it, sir, that in 2008 and 2009 you were aware of the policy directive from the Department of Health which mandated approval for clinical trials involving humans?---I'm not aware of that. Can you explain to me in more detail, please?

Certainly. Were you aware of a policy directive from the New South Wales Department of Health that required any clinical trial or research on humans requiring ethical and scientifically, and scientific approval in accordance with the National Statement on Ethical Conduct in Human Research?

---I, I knew that, I, I'm very much aware that any, any human, well, you know, trials involving humans have to be ah, passed through an ethics committee. I knew that.

Right. Okay. And did you have an understanding in 2008 and 2009 whether any consequence might follow if a clinical trial involving 200-odd patients using a device such as this Medex device proceeded without obtaining ethical approval?---Oh, I would never let a trial like that go ahead without ethical approval. In fact, this was one of the issues that I discussed with Sandra Lazarus, that if she wanted to go ahead with any, any research she had to get ethics approval.

THE COMMISSIONER: Was that at which meeting?---Ah, both, but certainly at the second, we, it's going no further unless you get ethics approval.

MR ALEXIS: Mmm. Now, in paragraph 19 of your first statement, sir, Exhibit 20, you tell us that to the best of your knowledge Ms Lazarus never received any human research ethic committee approval from the hospital in relation to the proposed clinical research trial. Do you see that?---As I believe.

And how should we understand you to have come by that belief?---I, I would have expected to had contact from the HREC for me to read and sign.

Because you understood your potential role as supervisor - - -?---Exactly.

- - - as head of the department?---Exactly.

30 So your statement there that to the best of your knowledge there was never any approval was based on the absence of any information to the effect that there had been approval?---That's true.

All right. Now, it's been suggested in this inquiry that, and I'm looking at page 274 of the transcript starting at about line 18 down to line 29, Dr Vaux it's been suggested in this inquiry that after Ms Lazarus spoke with a colleague of yours, and I'm not referring to the colleague who attended the cafeteria meeting but another colleague, but before undertaking the first test of any patient at the Royal North Shore Hospital she was told to proceed with the examination of that first patient without obtaining ethics approval and apart from the other colleague I'm referring to it's been suggested that you were the source of such authority to proceed?---That is untrue.

40 Have you had ever, have you ever at any time provided any verbal instruction or authority to Ms Lazarus to proceed with a clinical trial involving the Medex device - - -?---No.

- - - on any patients of yours at the Royal North Shore Hospital without first being satisfied that ethics approval had been obtained?---No.

And to complete this particular point, sir, can I ask you to look at paragraph 36 of your first statement and can I ask you this: if you had been approached and asked to supervise the conduct of a clinical research trial involving your patients without HREC approval having been obtained what would your position have been?---(not transcribable)

- 10 I'm sorry, sir?---You're saying, you're asking me did I get approval?---Let, let put the question again just so that we're clear with one another. Had you been approached and told that no HREC approval had been obtained but nonetheless asked to supervise a clinical trial involving 200 patients of yours using this device, what would your position have been?---I would never have agreed to that.

- Thank you. Now, you also, just going back to paragraph 19 of your first statement tell us that Ms Lazarus did not gain any access to any of your patients to be part of any clinical research trial project. Do you see that?
20 Paragraph 19 of your first statement?---(not transcribable)

Now, can you tell us a little about the arrangements at Royal North Shore Hospital. You've told us that you were office-less but how should we understand the arrangements that you have with the hospital in terms of consulting with patients at that location as distinct from Mona Vale?---I do not consult at Royal North Shore.

So - - -?---I do not have a clinic.

- 30 Do you see any patients at all in the Department of Urology at Royal North Shore Hospital?---When you say Department of Urology you mean a clinic or what do you mean by that?

Well, I'm seeking - - -?---Sorry, the Department of Urology is five urologists, that's the Department of Urology. We have no, we have no clinic, we have, other than once that's used once a week.

- So if a patient wished to obtain your advice where would they ordinarily attend for the purpose of consulting with you?---My private office at Mona
40 Vale or I also do a consulting session fortnightly at Sydney Adventist Hospital Medical Centre.

So is your position that you do not consult with any patients at the Royal North Shore Hospital?---Except if they're inpatients.

All right. Now, in paragraph 35 of your statement - - -

THE COMMISSIONER: Sorry, can I (not transcribable) understand that properly, does that mean that no patients of yours come, would come to see you at Royal North Shore Hospital?---That's true, for a consultation that is.

Mmm?---For an operation, yes, consultation, no.

Yes, for an operation you'd, you'd meet them in the, in the, in the ward first?---Or in the operating room.

10 Or in the operating room but they wouldn't come to see you in your private room would they?---In the private room at Mona Vale or, or - - -

Yes, but not at the Royal North Shore?---Not at the Royal North Shore. I don't have a clinic.

MR ALEXIS: Now paragraph 35 of your first statement you deal with the subject of patient consent forms, do you see that?---Yes.

20 And should we understand that you have never seen any patient consent form relating to the conduct of any clinical trial into prostate cancer involving any of your patients?---I have not.

Now, paragraph 38 you deal with the subject of daily patient lists for the Department of Urology Outpatient Clinic. Now, how should we understand what's contained in paragraph 38 in light of your evidence about there being no clinic?---The only lists would be at, on Thursday mornings at the clinic would be the only time that there would be a list of patients to be seen but they would not be - - -

30 THE COMMISSIONER: Well, what, sorry?---Sorry, yeah.

What clinic is that?---It's in clinic 3 which is a shared clinic with other specialities, it's used by urology on Thursday mornings.

And who, who, you, you don't utilise that clinic?---I do not. There's two other consultants utilise the clinic together with our registrar and fellow.

And was that clinic open daily?---No, Thursday morning only.

40 Only?---Yes.

And that's, that is a urology clinic?---That's a urology clinic.

MR ALEXIS: So in relation to the existence of any daily patient list for that Thursday morning clinic any patient identified on such a list would not be a patient of yours?---No.

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

Thank you. Now, in paragraph 40 you deal with the subject of officers or examination rooms and the availability of those facilities to Ms Lazarus, do you see that?---I do.

And what's the base upon which you tell us there that Ms Lazarus was never given any privileges with respect to office or examination rooms?
---She has never been seen at the clinic.

10 And that's based on what, Dr Vaux?---On my asking my colleagues.

And you refer with respect to the use of clinic number 3 that that's used by a number of doctors?---Yes.

And in 2008 and 2009 are you able to identify who those doctors were?
---Well, I, I have no idea, I don't work there so I wouldn't know but (not transcribable) found out if you were interested but they would be just, the only people I know are the, the urology staff.

20 And so in informing yourself about whether she has ever been seen using any office or examination room to whom did you speak to be informed about that subject?---Dr Rosaiah who does the clinic and Dr Vass.

THE COMMISSIONER: Are they the only two urologists who attend that clinic?---Together with our trainees, yes, a registrar who's training in urology and the fellow who's a post-graduate.

MR ALEXIS: Now moving if I may to your second statement in paragraph 6 you've dealt with the question of the analysis of clinical data. Have you ever been provided with any such data either by Ms Lazarus or perhaps her sister, Michelle - - -?---No.

- - - arising from any test on any of your patients?---No.

Have you ever been provided with or seen any folders, perhaps white in colour, perhaps some other colour, containing records relating to patients of yours?---No.

40 Have you ever been provided with any colour graph or printout from a computer relating to the performance of a Medex test on any of your patients?---No.

And have you ever received any training in relation to either the use of the Medex device or the interpretation of results produced by that device?---No.

Now in paragraph 13 of your second statement, if I could go to that, please. You tell us a little about the relationship that you had with your patients. Do you see that?---I do.

And perhaps you could explain to us what you mean in relation to the relationship that you had with your patients in terms of the regularity of communication and that sort of thing?---Oh, it's, I would see most prostate cancer patients every three to six months.

Ah hmm?---I know them, I know them quite well.

10 And is what you tell us in paragraph 13 based on the absence of any comment or communication from any patient concerning their involvement in any testing with Ms Lazarus?---It's impossible for any testing to be done without her, without anybody coming to my office. The patients are not identified as prostate cancer patients. All we have is a, is a, in my office, are identified by a number.

So if there was a patient list for example at clinic 3 that you've described - - -?---What do you mean a patient list? You mean a patient list of patients or patient list of prostate cancer patients?

20 Well just a patient list of patients, would that identify in any way at all what the patient was attending for?---It would not.

And what about the list of prostate cancer patients?---There is no list of prostate cancer patients.

30 All right. Thank you. Could I come please to paragraph 23 of your second statement. You tell us there Dr Vaux, that 10, about 10 prostate cancer patients would have been treated at North Shore during the 2008/2009 period. Do you see that?---(NO AUDIBLE REPLY)

And are you referring that patients of that character being treated by you? ---That was just a guesstimate of what we would expect to come through the unit.

THE COMMISSIONER: That is to be treated by all urologists?---Yeah.

Do you only treat prostate?---No, no. We all, we all do general urology as well as prostate cancer.

40 Can I just seek to understand a little more, Dr Vaux, what you mean by prostate cancer patients. Are they patients that have already been diagnosed as symptomatic of prostate cancer?---People with prostate cancer rarely have symptoms. They have to be diagnosed on a blood, usually on a blood test and a biopsy.

THE COMMISSIONER: And therefore - - -?---And?

And therefore how did you know they were - - -?---Because I was talking about new prostate cancer patients.

(not transcribable) patients having been identified with prostate cancer? ---There would have been, there's a (not transcribable) that would have been identified. But these were new prostate cancer patients that were having an operation. That's what I - - -

10 Having had the cancerous condition identified, diagnosed?---Yeah.

Yes. So they'd already had their biopsy?---They may have had it at the hospital, yeah.

Yes?---And if they are diagnosed as prostate cancer patients, they will have had a biopsy, yes.

Yes. All right.

20 MR ALEXIS: Yes, thank you. Now could I ask you to go please to page 288 of the examination bundle, Exhibit 1. And do you see Dr Vaux, what appears to be a two page letter that bears your signature on the letterhead of Northern Sydney Health?---Yes.

Can I provide you please with what appears to be the original of that letter. Now having been provided with the original of that and you see of course the date of the letter, 12 June, 2009 and to whom it is addressed, Inter Medical. What do you say about the signature that appears as your signature on the second page of that document?---It looks like my signature.

30 Do you have any recollection of signing this letter in regard the date?---I did not sign this letter. I did not sign this document.

And can you tell me why it is that you are able to express as you have the view that you did not sign the letter?---Two things. One is the piece of paper that I signed purporting to be going to Ethics had no letterhead. This letterhead is out of date. This entity did not exist in 2009.

40 And you tell us about that point in paragraph 26 of your first statement I think where you refer to the North Sydney Area Health Service or North Sydney Health not being in existence for about five years or so?---That's exactly right.

And is that five years before 2009?---I think so, to the best of my recollection.

All right. So that's the first matter you've pointed to. Is there anything else?---This is a, this is a letter purporting to say that a trial was carried out. This is, this did not happen.

And so if a letter like this purporting to record the fact of a trial and the results of such a trial was presented to you is it something you would have signed?---Probably not.

10 Now can I draw your attention to, pardon me, some evidence that's been given to the Commission with respect to this letter. And for the record can I note page 295 of the transcript from about point 35. And sir, it's been suggested that the letter that's before you at pages 288 and 289 of Exhibit 1 was initially drafted by Ms Lazarus. The draft was provided to you on blank white paper without letterhead. It was shown to you in the first instance and then you had another meeting. Having looked at the draft you made no changes to it. And at 296 line 8 and following, it's suggested that you were completely happy with the draft and it was presented to you for signature. And then over on 297 from line 11 and following, the suggestion has been made sir, that it was printed out on letterhead as we see. A meeting was arranged and that you signed this letter on the date that it bears up in the cafeteria where you conducted your meetings with Ms Lazarus. Sir, what do you say about those suggestions that I've made?---That they're false.

20

THE COMMISSIONER: Can I just ask you about this letterhead. There has been evidence that these letterheads were available in a tray at the Kolling Institute and it's said that there was a stack of them. Do you know anything about that?---No. All I know is that this entity did not exist in 2009. The Kolling has only been open, it was opened I think in 2009.

Do you know if there is a stack of letterheads on Level 8?---I, I don't work on Level 8. No idea. Most, in all the wards the letterhead is kept in, in shelves on the, on the wards, as far as I know.

30

Have you read, you've read the letter at 288 and 289?---I have.

And have you, have you ever, had you ever seen it before the ICAC inquiry commenced?---No.

And is it possible that you could have signed it?---No. This, this, this letter says that the trial had been done.

40 It says more than that. It says 200 patients were tested?---Exactly right. And that's totally false. I would never have signed that letter (not transcribable) I mean it just didn't, didn't happen.

Not to put too fine a point on it, Dr Vaux, and I think it's important to call a spade a spade here, I understand your evidence to be that this, this letter at 288 and 289 with your signature on it is a fraud?---I would say so.

MR ALEXIS: Dr Vaux, in the opening paragraph of the letter following the reference to the 200 patients, it refers to those patients with abnormal PSA being screened with the Medex test. Do you see that?---(NO AUDIBLE REPLY)

THE COMMISSIONER: On the fourth line?---Yes.

MR ALEXIS: Can you assist us with what that is a reference to, if you can?
---PSA is an enzyme which the prostate releases. Prostate cancer is one of
10 the causes of elevation of PSA which would be the abnormal level of PSA.

So is that really just indicating that the patients that were said to have been screened with the Medex test were those who were, had already been identified as symptomatic?---I'm not sure that I understand exactly what you're saying.

THE COMMISSIONER: The PSA, the taking of PSA is a diagnostic tool so often, I presume most of the time when PSA is taken from a patient it's not known whether the patient has prostate cancer or not?---Exactly.
20

And once, I think as I understand this letter, it is saying that 200 patients who have already had the blood test involving the determination of PSA have been screened by the Medex test. Is that your understanding of it?
---That is my understanding, yes.

And what do you say about the, well, firstly, before I ask that question, as I understand that evidence, other evidence that's been given to the inquiry has said that these 200 patients were your patients. So what do you say about the probabilities of this occurring? That is, that 200 patients with abnormal
30 PSA were screened by Ms Lazarus with the Medex test?---That it's false.

And why, what is it, what are the factors which lead you to that assertion?
---To, to get the, to find that, those test results, she would have to come to my office.

Could she not have asked the patient?---Where would she get the, I don't understand how she could, how you could say, think she could just, patients just materialise. They, they would be, all the patients are identified only at
40 my office.

Well, you, I mean, as I understand your evidence, the patients are not at Royal North Shore?---Exactly right.

So you did not have patients at Royal North Shore- - -?---Exactly right.

- - -who she could have asked?---Yes.

And 200 is quite a lot?---It is a lot.

How many patients with abnormal PSA do you see in a year?---Easy, easy 200.

So in a month?---Divide it by twelve.

MS FURNESS: Commissioner, it might just be helpful to identify where the witness sees those patients.

10 THE COMMISSIONER: Yes. Well, I understand you don't see them at Royal North Shore?---Exactly right.

You see them in your- -?---My private office.

Yes?---Yes.

So how, a month you would see from ten to 20?---Exactly.

20 MR ALEXIS: Dr Vaux, before being shown the letter at 288 by the ICAC investigators, did you have any knowledge of the business or firm known as Inter Medical?---No.

Have you ever had any conversation with anyone identifying themselves as Michelle Lazarus?---Never.

Yes, thank you, Dr Vaux. That's all I have, Commissioner.

MS SOARS: My name is Julie Soars. I'm a barrister.

30 THE COMMISSIONER: One moment, Ms- - -

MS SOARS: I apologise, Commissioner.

THE COMMISSIONER: Can you just explain something to me, please, Dr Vaux. On page 289 it says that Medex tests showed sensitivity of 75 per cent and specificity of 93 per cent for the 48 patients screened. Can you explain what that means, please?---What, sensitivity and specificity?

40 Yes?---It's a statistical definition. Sensitivity is the sensitivity of the test and the specificity is the accuracy of the test.

And- -?---Oh, this is any, any, any test.

I understand that. There's something else I, I don't know whether, the, on page 288, that's the first page in the letter there's a reference to 200 patients with abnormal PSA having been screened with the Medex test and then over the page there's a reference to 48 tests so that there is this table at the top of the page which, with a total of 48 tests and is there any explanation in this

letter that I have missed, because I don't see one, why the, why the details on page 2 concern 48 tests when it says that initially 200 patients with abnormal PSA were screened with the Medex test?---I can't explain that.

Yes, Ms Soars.

10 MS SOARS: Thank you, Commissioner. My name is Julie Soars. I'm the barrister for Sandra Lazarus. Commissioner, there's been evidence given on a number of matters on which I need to obtain instructions that weren't in the (not transcribable) statement and have been elaborated on. To be realistic I think I would need half an hour to obtain these instructions and I would seek access to the original of the letter. Fifteen minutes to half an hour. I'll be as quick as I can, but I have to be realistic.

THE COMMISSIONER: I understand.

20 MR ALEXIS: All right. I should formerly tender that letter, the original letter. I'm sorry, Commissioner, I should have done that when it was before Dr Vaux.

THE COMMISSIONER: Yes. The, can I just ask when you got the statement Ms Soars?

MS SOARS: I received the statement last night, but there really has been a number, evidence given on a number off matters today that just, were not foreshadowed in the statement.

30 THE COMMISSIONER: Yes. Exhibit 22 is the letter, the original letter from Northern Sydney Health of 12 June, 2009.

#EXHIBIT 22 - ORIGINAL LETTER FROM NORTHERN SYDNEY HEALTH DATED 4 JUNE 2009

THE COMMISSIONER: Yes, we, we have to finish Dr Vaux today.

40 MS SOARS: There's no question of that. I don't expect to be particularly long, Commissioner. But I do have to put what I have to put on on instructions.

THE COMMISSIONER: Yes. We'll adjourn for half an hour.

SHORT ADJOURNMENT

[11.11am]

MS SOARS: Thank you, Commissioner.

Dr Vaux, you've given evidence that you're the Head of Department of the Royal North Shore. Could you say - - -

THE COMMISSIONER: Of Urology.

MS SOARS: Sorry, Head of Department of Urology at Royal North Shore Hospital. When did that commence?---In November, 2007.

10 And could you describe what your responsibilities are as Head of Department?---My responsibilities are to carry out some of the administration, you know, I attend meetings with the other heads of departments. I am involved to some extent in organising the urological facilities for the new hospital.

And in a general sense or in a more specific sense do you exercise a supervisory role over the doctors that work within the urology department?
---A general sense. There's no hands on. We are all visiting medical officers and work there in their own right. I'm the nominal head of the
20 department.

And including the registrar and the fellow, are they visiting medical officers?---Sorry. They are under, we all supervise them.

But they're not classed as visiting medical officers?---The trainees?

The trainee or the - - -?---No, there's no (not transcribable) on the staff at the hospital.

30 But the other doctors you mentioned, I think Dr Rosaiah and another Dr Bass - - -?---Vass.

They are visiting medical officers. Is that your evidence?---As I am.

And Dr Vaux, you've given evidence that you had two, two meetings with Sandra Lazarus. That's correct?---That's right.

And you discussed in general terms a clinical trial at those meetings?---I did.
40

And the clinical trial was to take place at the Royal North Shore Hospital wasn't it?---It was.

And it was never suggested that Ms Lazarus would go to your rooms, for example, at Mona Vale?---Never was, no.

She didn't test your patients at Mona Vale?---The, the details were never discussed.

The details were never discussed, but it was never in your mind that she would have to go to your rooms (not transcribable)?---Nothing was in my mind. Nothing was in my mind. We had got, we hadn't even got to first base.

10 But if I go back to my earlier question, it was proposed that the trial would take place at Royal North Shore Hospital. Is that correct?---I can't really exactly remember her actually saying that. It was under the umbrella of North Shore, yes.

And you were aware weren't you that there were 200 patients to be tested in this proposed medical trial?---There was, nothing had been organised.

So I put it to you you're saying that you didn't ever discuss the number of patients with Sandra Lazarus?---We never discussed the number of patients.

20 You never discussed how many patients - - -?---Never, we never discussed 200 patients.

And it was never in your knowledge that you had, that Sandra was proposing 200 patients?---To the best of my memory that is so.

If I could just take you to your first statement, Exhibit 20, paragraph 12. Now you say in this paragraph don't you that Ms Lazarus proposed to you a trial involving 200 male patients. Isn't that correct?---This statement was written by one of the investigators from ICAC. To the best of my memory at the moment, the numbers were not actually mentioned.

30 I see. But you agree with me don't you that - - -?---A number was mentioned.

And do you know what - - -?---But I do not remember the number. Well obviously a number would have to be used. The exact number I do not remember.

But I just want to go back to this paragraph if I could?---Yes.

40 You agree with me the impression that this paragraph gives is that there was a discussion of 200 patients being involved in a clinical trial. That's correct isn't it?---That's correct. Yeah.

And I take it that you read this statement before you came in to give evidence today?---I did. Yeah.

And you had an opportunity if you could have to correct anything that was incorrect in this statement?---I have.

But you're saying now that - - -?---I said to the best, this statement was given in 2009, 10, sorry. It was put to me that, that that was the number that was to be examined by the investigator. I, I can't remember personally an exact number.

But I put it to you, Dr Vaux, that if it was put to you by the investigator in that way, you must have agreed to it for it to be put in the statement?--- Look, that could quite have been possible, yes.

10 So at that point in time when you made your statement you accepted that it was possible that Sandra Lazarus - - -?---(not transcribable) yes.

- - - had discussed with you 200 patients and therefore, I put it to you that you accepted it was possible that she would have seen 200 patients within the Department of Urology at the Royal North Shore Hospital?---Your, your conclusion is incorrect. I, we could have arranged for her to see 200 patients.

20 Thank you?---That's, that's slightly different to what you, the implication that you were saying. They would not necessarily be patients who were, had been through the Royal North Shore. But they were associated with us as the clinicians.

But, but you'd agree with me wouldn't you that more than 200 patients a year, or you can give me a figure, comes through the Urology Department of the Royal North Shore Hospital generally - - -

MS FURNESS: Well, I object to that question.

30 MS SOARS: I haven't finished it, but - - -

MS FURNESS: Well I object to what's already been asked of it. My friend referred to patients. The answer to a question as general as the number of patients through the urology clinic is in my submission not helpful to you, Commissioner, in determining Dr Vaux's evidence in relation to prostate cancer.

40 MS SOARS: I'll break it down, Commissioner. You've given evidence that within the Department of Urology there are general clinics running for which you don't, you're not directly involved. Is that correct?---Exactly right.

And in relation to those clinics in which you're not directly involved are patients coming to those clinics with abnormal PCA results.

THE COMMISSIONER: PSA.

MS SOARS: PSA, sorry, I apologise, Commissioner?---We do not see new patients at the clinic.

And when you say we is that - - -?---We generally, as, as, as the department. The two, the two urologists, consultant urologists who work there do not see new patients. No patient would come with an abnormal PSA off the street undiagnosed.

10 But you accept, don't you, that some of the patients that have already been diagnosed to come to the clinic could have an abnormal PSA?---Could have, have an abnormal, I accept that, yes.

And you'd accept there'd be quite a number of such patients - - -?---There would be some, yes.

- - - coming to the clinic?---Yes, there would.

20 Could you estimate how many on a weekly basis?---I would not be able to estimate it at all. I have no involvement with the clinic. I have no idea what's happening.

And I put it to you that it's entirely possible that Sandra Lazarus could have approached some of the patients of - - -?---I put it you that's impossible.

30 I haven't finished my question but it might be better if I do and then you can answer. I put it to you that it's entirely possible that Sandra Lazarus could have seen some of the patients of the general clinic within the Urology Department who had abnormal PSA levels. Is that correct?---That is incorrect. She would, she would have to come through, she would not be able to see patients without supervision of a doctor. She, to my, to the best of my knowledge, talking with the consultants who work with me, she has never been at the urology clinic.

And Dr Vaux - - -?---You assume, and the assumption that, that you are making is that she has access to notes.

40 Well, I'm not, I didn't make any assumption. I was - - -?---No, but if you're saying that patients, patients who are having an abnormal PSA how did, how would she know? How would she know?

I, I don't want to engage argument, I want to ask you - - -?---I'm not arguing, I'm just - - -

I want to ask you some questions if I could, Dr Vaux - - -?---Yeah.

- - - and ask you to just answer the questions - - -?---Yeah.

- - - if you could please.

THE COMMISSIONER: Well, I think that, I think that, that was a rhetorical question, that was in support of Dr Vaux's answer that this could not have happened.

MS SOARS: It's not in answer to a question and I would prefer if Dr Vaux could just answer the questions.

THE COMMISSIONER: Yes.

10

MS SOARS: Thank you, Commissioner.

THE COMMISSIONER: Dr Vaux, is it possible that Sandra Lazarus could have obtained patient lists for the general clinic - - -?---No.

- - - from, from the waiting room?---No.

And why do you say that?---She couldn't. If she's never been to the clinic how could she actually - - -

20

That's the only basis?---That's, that's what I would say.

But if we assume that she may have gone to the clinic is it possible she could have got it from a receptionist at the clinic?---I, I find that highly unlikely.

Highly unlikely?---Highly unlikely.

I'm putting to you that's in fact what happened?---Well, I'm, yeah, it's your statement. I, I wouldn't have any idea whether, the voracity of that at all.

30

And that she interviewed or tested patients with abnormal PSA levels in a spare consulting room adjacent to the waiting room?---I would say that's not true.

THE COMMISSIONER: I think it might be helpful if you could identify whose patients you say that were seen.

MS SOARS: Yes. I'm putting to you that she tested patients of the general clinic in a spare waiting room off, sorry, a spare consulting room off the waiting room. Is that correct?---There is no spare room.

40

They're not all occupied all the time, are they?---In clinic 3 obviously you've not seen it, there is no spare room.

THE COMMISSIONER: Ms Soars, you're entirely entitled to put this but that's not what your client testified.

MS SOARS: I think, I have had a look at the transcript and - - -

THE COMMISSIONER: Your client said that she tested patients for a pilot study and those patients were from another doctor and then she said she tested at least 200 of Dr Vaux's patients, that's at page 348 and that's, that was her evidence so I'm, I'm just trying to understand on what basis you're putting this.

10 MS SOARS: I do recall she mentioned patients of the clinic in her evidence, Commissioner, and I'm just trying to find the reference for you.

THE COMMISSIONER: It's 348, line 20 to 30.

MS SOARS: Can I just make a comment, Mr Commissioner, about the transcript? The transcript that's publicly available is page-numbered each day and so it does not have a running page number. And that is the transcript which I understand we are required to, we have to access. From time to time I do get copies of the transcript with the running page number sequence but I haven't, I can't, I apologise, but I, I don't, the transcript I
20 reviewed this morning didn't have those page numbers.

THE COMMISSIONER: I'm sorry that you haven't been given a transcript with page numbers and that's inappropriate and unhelpful. I'm sorry that that has happened.

MS SOARS: Thank you. I only realised that this morning.

THE COMMISSIONER: I'm not sure if you're the only one who hasn't got it, and if that's the case, then don't think that there is any deliberate intent
30 to, to put you in a prejudicial position.

MS SOARS: I wasn't suggesting that. I just think it, we have to access the public transcript and- - -

THE COMMISSIONER: Anyway, if you- - -

MS SOARS: Look, I need to check my own notes, I'm sorry, Commissioner.

40 THE COMMISSIONER: You should check the transcript.

MS SOARS: Well, my notes of the transcript, but I have to go back to my copy of the transcript in order to do it. I believe- - -

THE COMMISSIONER: Well, then, if you look at 348, now, this is important, so 348- - -

MS SOARS: Which is what you've given me, is it? No, I just want to check my reference. If I could just take a moment.

THE COMMISSIONER: All right. Certainly.

MS SOARS: Now, I now understand what happened and when you look on the computer, the PDF has individual page numbers but when it's printed it has the transcript page number at the bottom and I was looking at the wrong page number on the soft copy. So I apologise, that was my, it prints off
10 correctly but I was looking at the soft copy, so it's my mistake, I apologise. So if I could just use your copy again. Okay. Yes. I was thinking of the reference at page 348 line eight to ten, page 349 of the transcript starting around line 10.

THE COMMISSIONER: Yeah, but the - - -

MS SOARS: In, in which the detail of the evidence given by my client was that she went to the patient list for the clinic, which we understand is the general clinic now- - -
20

THE COMMISSIONER: Mmm.

MS SOARS: - - -and she obtained details from the patient list and she tested those patients from the general list and- - -

THE COMMISSIONER: But the patients that she tested were Dr Vaux's patients.

MS SOARS: Well- - -
30

THE COMMISSIONER: That's what she says at 348 T.

MS SOARS: She does say that, Commissioner, but in my submission, she's given detailed evidence of what she did in circumstances where she perhaps didn't appreciate that the patients in the general list were not considered to be Dr Vaux's patients but patients of the general clinic.

THE COMMISSIONER: That's, it's put again at page 349 line 30.

MS SOARS: But I think there's an assumption in that question that the patients in the list are Dr Vaux's patients.
40

THE COMMISSIONER: Well, that assumption comes from your client's evidence.

MS SOARS: But- - -

THE COMMISSIONER: At 348- - -

MS SOARS: But, but, but in my submission- - -

THE COMMISSIONER: - - -at line 20.

MS SOARS: Yes. But I think, I think the reading of that evidence is that my client intended by her detailed evidence to refer to patients from the general patient list and, and they were the, in detail, they were the patients that she screened.

10

THE COMMISSIONER: That's a submission.

MS SOARS: Well- - -

THE COMMISSIONER: But proceed. I'll allow- - -

MS SOARS: Thank you, Commissioner. I mean, they are also my specific instructions. You've given evidence, haven't you, you signed a document that you thought would form part of a submission for ethics?

20

THE COMMISSIONER: I'm not stopping you now.

MS SOARS: I've moved on, I think, Commissioner, from that topic.

THE COMMISSIONER: Well, I would like to ask some questions on this issue. Dr Vaux, the proposition has been raised with the Commission that Ms Lazarus interviewed and tested at least 200 patients in the clinic at Royal North Shore. And I take it from the evidence that you've given that you have no personal knowledge of whether she did or did not?---That's right.

30

But that from your knowledge of what happens there, you have an opinion as to the likelihood of that occurring or not?---Yeah.

Now, and I understand what your opinion is, but I would like to know on what it is based?---The, she talks about a list. The list has names only, men and women, no diagnosis.

Yes?---The notes stay in the, in the consulting rooms with the consultant and they- - -

40

Assume that she, I think the proposition is, she gets the list from the receptionist and there is some information on the list, not much, but some information on the list?---Basically the patients' name.

That's all?---Maybe their medical record number. I don't know. I haven't been at the clinic for a number of years now.

And she then goes and interviews the patients in the clinic, in the waiting room. She's given the list by the receptionist, she has a look at it, she's able to see from the list what patients would qualify for her tests, then goes to interview them to make sure?---There is no, there is no identifier on the paper other than the, other than a medical record number and a name. Diagnosis would not (not transcribable)

And are any instructions given to the receptionists as to the releasing of the patients list?---I have no idea about that. I'd, I'd, I don't run the clinic.

10

Yes. All right?---But I would think that most, well, most of the staff on the clinic would respect patients' privacy and they wouldn't be, it would be a surprise to me that they'd be handing over details to someone who was unidentified.

Have you seen the lists (not transcribable)---I haven't done a, I haven't done a clinic almost for about ten years, but when I was doing it there was a, there was a, a list, a patient list, a bookings list, and that was it, with the, with the clerk. There wasn't multiple copies of it.

20

Yes?---And notes were put in our box for us to see outside the clinic room. And then when the notes were completed, when we, when we'd written in them, they stayed with us while we dictated the letter.

Yes, right, I (not transcribable)?---(not transcribable) access to an unknown person.

And Mr Alexis, the letter of, the letter that purports to bear Dr Vaux's signature of June 2009, which is that.

30

MR ALEXIS: Sorry, Commissioner. Where - - -

THE COMMISSIONER: I beg your pardon. The letter of some date in, about June 2009 - - -

MR ALEXIS: 12 June.

THE COMMISSIONER: And where is that?

40 MR ALEXIS: It's - - -

THE COMMISSIONER: That's just the one at 288?

MR ALEXIS: It's the letter at 288 and the original is Exhibit 22.

THE COMMISSIONER: Yes, right, yes, thank you, yes.

If you look at page, this letter that we've, you were being asked about before, are you able to, you can't see anything in this letter I take it which indicates whose patients the 200 patients are referred to in that letter? That's not possible?---(NO AUDIBLE REPLY)

Yes, thank you.

10 MS SOARS: I am just going to put to the witness, Commissioner, some matters my client gave evidence of at page 349 of the transcript commencing at about line 30.

Is it possible, Dr Vaux, if Ms Lazarus made an assumption that all of the patients on the list for the general clinic were attending there for a biopsy that she could have confirmed that in a short interview with the patient? ---Just repeat that please.

20 Is it possible that if Ms Lazarus made an assumption that each of the patients in the general clinic patient list was attending for a prostate biopsy, that she could have confirmed that in a short interview with the client, with the patient?---No patients who attend the clinic have a biopsy on, on the day of the clinic.

So for what purpose are they attending the clinic?---Consultation, collecting pathology.

In relation a possible biopsy though?---In relation to anything.

30 In relation to only prostate, prostate problems or other problems potentially?---Urology is a wide speciality and many conditions, the kidney, the bladder, the prostate (not transcribable) stones, testicles.

I see?---Penis.

Okay. But that, they would be able to discern perhaps by asking the patient a few questions, is that correct?---I don't understand how that, that she could say that she could just come up and involve the patients saying, I find that hard to believe. I don't believe, accept what you're saying.

40 Well, the question I asked you was it's possible by a few questions of a patient to determine whether they're attending, for example, in relation to their prostate, is that correct?---Oh, it could be, yes.

THE COMMISSIONER: Sorry, I need to check one other thing. What would you say about a description of the clinic as a biopsy clinic?---It's not a biopsy clinic.

And are biopsies done there?---No.

MS SOARS: I just refer to line 49 of the transcript at 349?---Yeah.

THE COMMISSIONER: You're free to ask whatever questions you like.

MS SOARS: Thank you.

And Dr Vaux is it correct that the patients there are all pre, pre-biopsy?
---No.

10 So some pre and some post biopsy in relation to the prostrate?---They could
be.

Thank you. You've given evidence haven't you that you discussed with
Sandra Lazarus the possibility of her putting on an ethics application for
approval in relation to her proposed clinical trial?---I demanded she put in a
ethics approval before we went any further.

20 And you've given evidence, haven't you, that you signed a document in
relation to that. Is that correct?---I signed a document purporting to be a
description of her, her method. It was not an application for ethics.

And did Ms Lazarus, ever, ever, I put it to you that Ms Lazarus provided
you with a copy of a proposed clinical study protocol, is that a possibility?
---She didn't.

30 Well, can I show you a document and just ask you whether it's the same as
the earlier document we were referring to. I show you this, this document
which is entitled "Clinical Study Protocol." Have you sent this document
before?---(not transcribable)

And I put it to you that Sandra Lazarus provided you with a copy of this
document and you discussed it at one of your meetings, that's correct isn't
it?---It is not correct.

Should that document be marked MFI, Commissioner?

THE COMMISSIONER: Yes. The document headed Clinical Study
Protocol is MFI 2, sorry, MFI 1.

40 MS SOARS: Thank you.

MS FURNESS: Commissioner, it might be described, it might be described
with Prostrate Cancer, it's similar to another document with the same
heading.

THE COMMISSIONER: I see, thank you for that. Clinic Study Protocol
relating to prostrate cancer is MFI 1.

**#MFI 1 - CLINICAL STUDY PROTOCOL RELATING TO
PROSTATE CANCER**

MS SOARS: I think you've already been taken to these documents but at
page 155 of Exhibit 1, the evidentiary bundle, sorry, page 151. It's correct,
isn't it, that Ms Lazarus provided you with a copy of this letter and the
10 attached application at one of your meetings?---It is, it is not correct.

Is it possible you could have forgotten that she did?---It is not possible. She
never provided it to me.

I'd like to show the witness now the original letter of 12 June, 2009 which is
Exhibit 22, page 288 of the evidentiary bundle.

THE COMMISSIONER: Thank you.

20 MS SOARS: And if you turn in particular to page 2 of the letter, please, Dr
Vaux. Dr Vaux, I suggest to you that that is your signature?---It looks like
my signature.

And there's nothing about that signature that would suggest that it's not
your signature is there?---That's your, your statement.

No, I'm asking you a question, could you let me know if you agree with it.
There's nothing about the signature on page 2 of that letter that suggests to
you that it's not your signature, is there?---(not transcribable)
30

And do you deny on oath that that's your signature?---I said it looks like my
signature. I'm not, not denying anything. I said it looks like my signature.

And you signed that letter, didn't you, during a meeting with - - -?---I
signed - - -

If I could just finish my question and you can answer?---Okay.

40 You signed that letter didn't you during a meeting with Sandra Lazarus on
or about 12 June 2009, that's correct, isn't it?---I signed a piece of paper
which had no letterhead on it, the front pages had no letterhead. It was a
signature on a method to be used to be present to ethics.

Well, I take you to page 2 of that letter. There's no method in, on page 2 of
that letter if you just clarify is there?---It was on page 1.

You signed on page 2.

THE COMMISSIONER: I think you're at cross-purposes.

MS SOARS: Sorry.

THE COMMISSIONER: I think Dr Vaux is talking about the document he signed - - -

MS SOARS: Yes.

10 THE COMMISSIONER: - - - is not necessarily the document at page 288, 289.

MS SOARS: I just want to clarify that there's no, there's no suggestion that the document you signed is now this letter is there, Dr Vaux?---Isn't it?

At the earlier meeting that you're talking about?---Which earlier meeting are you referring to?

20 Dr Vaux, you've given evidence that you signed a document relating to method. That's correct isn't it?---It was only, on two pieces of paper that had no letterhead.

No letterhead. So it's not this letter that we're talking about?---(not transcribable).

30 Thank you, Dr Vaux. That's all. And I just put it to you, Dr Vaux, that Ms Lazarus did in fact carry out tests on patients with abnormal PSA levels within the general urology clinic and on 200 of such patients. Is that correct?---She did not.

And that she discussed the results of those tests with you?---She did not.

No further questions, Mr Commissioner.

THE COMMISSIONER: Yes, thank you. Mr Hogan.

MR HOGAN: I have no questions of the doctor.

40 THE COMMISSIONER: Ms Furness.

MS FURNESS: Thank you, Commissioner. Doctor, you were asked questions by the Commissioner earlier in relation to the Thursday morning meeting and you were specifically asked for the basis of your belief that Ms Lazarus had not seen 200 patients with abnormal PSA. Do you remember that?---I do.

And you answered that the basis for your belief was that firstly, the waiting lists did not disclose the diagnosis?---That's correct.

Were there any other bases for your belief other than what was contained on the waiting list?--I have discussed with my colleagues who run those clinics and they have not seen Sandra Lazarus in the clinic.

When you say the colleagues, colleagues who run the clinic - - Dr Rosaiah and Dr Vass. Dr Rosaiah has met Sandra Lazarus, so he would be able to recognise her.

10 And he told you did he that he had not seen her at that clinic?---Yes, he did.

And Dr Vass told you the same thing?---Exactly the same.

Other than the patient waiting list and your discussions with each of your colleagues, are there any other bases to your belief that she did not screen those patients?---To, to define which patients that she could screen, she would have had to have examined the notes.

20 And she didn't have access to those notes?---(NO AUDIBLE REPLY)

You, you indicated that the patients who were seen at that clinic had conditions relating to kidney, bladder, stones, testicle, penis as well as prostate?---Yeah.

Is it the case that because of the numbers of those patients with other diagnoses you are not of the belief that there would have been a sufficient number of patients for her to have screened 200 with abnormal PSA?

30 MS SOARS: Could I object? Within what period is my learned friend referring to 200 patients?

MS FURNESS: In the period that Ms Lazarus said she - - -

THE COMMISSIONER: Well I think you should identify that.

MS FURNESS: Within a period in 2008 to 2009.

THE COMMISSIONER: Over how many months?

40 MS FURNESS: Of a period of about six months?---We're postulating that before we even discussed the method she was speaking (not transcribable)

Just assume that for the purpose of the question, doctor?---I would find it virtually impossible for her to see anywhere near that.

Is that based - - -?---And I would say that I would be positive (not transcribable) to see anyone (not transcribable) with a raised PSA without us knowing.

THE COMMISSIONER: Without asking?

MS FURNESS: Without us knowing?---Without, without the urologists knowing. We're postulating she's examining notes?

THE COMMISSIONER: I don't think so. The case that she's putting is that she discovers all the relevant information from interviewing the, the patient after getting signposts as to which patients to interview from what is on the list, the patient list?---Well, on the patient list there is no identifying data.

Well I'm not sure if you can say that or can you, Dr Vaux? I haven't seen a list for some ten years or something?---Having, having worked in the outpatients for a number of years, there is no identifying, there is no diagnosis placed on the, on the patient list.

Yes. I'm just very, the fact that we do know what Ms Lazarus says was on the list because she told us. I'm just trying to find it.

20 MS FURNESS: It's page 349, Commissioner (not transcribable) 15.

THE COMMISSIONER: Yes. I don't, there is - - -

MS FURNESS: Name, date of birth, other personal details.

THE COMMISSIONER: And there is some, at another point she refers to something I think, which doctor, the letters FN on it, doesn't she? I may be mistaken. I thought that there was at another, at another place. Maybe I'm thinking of, of Royal Hospital for Women.

30 MS FURNESS: Page 346 at line 30 there is some further material.

MS SOARS: Line 40.

MS FURNESS: It starts sort of at line 30 I think. What information is on the list?

THE COMMISSIONER: Yes.

40 MS SOARS: Date of birth, a slight description of what the patient results or what they were waiting for.

THE COMMISSIONER: Are you prepared to accept that, Dr Vaux?---No, I cannot accept it because I, I've never seen it in my experience.

MS FURNESS: This is in relation to Professor Burton's patients not Dr Vaux's patients. In relation to women who were expecting. I don't suppose that you doctor, saw many women who were expecting?---Not really.

No.

THE COMMISSIONER: Well the first thing I think to clarify is what do you say about the proposition that your patient or that the patients in the waiting room were there because they were pre or post biopsy? That's at line 30, by the way of 349. Is that, is that, what do you say about that?---I accept that.

10 MS FURNESS: I'm sorry I didn't hear the answer?---(not transcribable) repeat that again?

THE COMMISSIONER: Yes, I will. I mean it may not make sense, that's why I hesitated, but I'll put it again. A proposition is that the reason why the patients in the waiting room were in the waiting room were that they were pre or post biopsy. That's the proposition?---Possible.

Pardon?---It's possible.

20 All of them?---Not, not all of them.

But some of them?---A few of them.

And it was, it is said that every patient attending there was for a biopsy?
---That isn't true.

MS SOARS: No, no. I apologise, Commissioner. It says she proceeded on the assumption that every patient - - -

30 THE COMMISSIONER: Yes. So on the basis and I draw your attention to line 39. What do you say about the proposition in all the patients in the waiting room were pre-biopsy?---Well - - -

Why is that?---Because they, because they wouldn't be. They'd be, it's a general urology clinic.

For the reasons that you've explained. There are therefore lots of other things?---Exactly.

40 Yes, Ms Furness.

MS FURNESS: I have nothing further. Thank you, Commissioner.

THE COMMISSIONER: Mr Alexis?

MR ALEXIS: Thank you, Commissioner, I have no further questions for Dr Vaux and would ask that he be excused from further attendance.

THE COMMISSIONER: Yes.

MS SOARS: Commissioner, I just apologise but Ms Furness did ask I think Dr Vaux how many patients would have presented at the clinics with abnormal PSA levels on, in 2008 the six month period. Can you, can you estimate, thank you.

MR ALEXIS: Yes, I'm with you.

10 MS SOARS: Thank you, to clarify.

THE COMMISSIONER: Yes, thank you Dr Vaux, thank you for attending.

THE WITNESS EXCUSED

[12.20pm]

MR ALEXIS: Commissioner, could, I'm taking the inquiry back to the Royal Hospital for Women and call Emma Louise Knowland.
20

THE COMMISSIONER: Ms Furness are you acting for Ms Knowland?

MS FURNESS: I'm acting for Ms Knowland and I make an application on her behalf, Commissioner.

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

MS FURNESS: Thank you, Commissioner.

THE COMMISSIONER: Now, Ms Knowland, would you like swear under oath or would like to affirm the truth of your evidence.

MS KNOWLAND: Under oath, Commissioner.
40

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Thank you, Commissioner, ma'am, is your full name Emma Louise Knowland?---Yes, it is.

10 And are you currently employed by the South East Sydney Area Health Service in the role of acting clinical nurse educator at the Royal Hospital for Women?---No, I'm not.

What is your current occupation, please?---My current position is that of registered nurse as the Royal Brisbane Women's Hospital.

Yes. I do now understand that you've travelled from Queensland to be here today Ms Knowland. Now, you, the 2007/2008 period, were you working at the Royal Hospital for Women?---I was, yes.

20 And in what capacity were you working during that period at that hospital?--I was working, as a full time registered nurse in the Oncology Outpatients.

All right, thank you. Now, in relation to this matter. Is it the case that you provided a statement dated the 2nd July 2010?---Yes, it is.

Thank you. Could I provide you with a copy? Now, Ms Knowland, could you just look at the document I've, have provided to you and confirm that is a copy of your statement?---Yes, it is.

30 And when you gave that statement was the content of it true and correct to the best of your ability? ---It was.

Thank you, I tender the statement, Commissioner.

#EXHIBIT 23-- STATEMENT OF MS EMMA KNOWLAND

40 MR ALEXIS: Thank you. In paragraph 8 of your statement you recall an occasion when you place, in late 2007 or early 2008, with respect to presentation conducted by a Ms Sandra Lazarus. Do you see that?--- Yes.

Was that the first occasion that you had been introduced to her and had met her?---It is, yeah.

And where was the presentation conducted, as best you recall?---It would've been in the tutorial room on level 2 of the Royal Hospital for Women.

And are you able to recall to mind who was present during the course of that presentation?---Professor Neville Hacker was present, his clinical nurse specialist Ellen Barlow was also present and I believe possibly that Dr Michael Campion was also present although I'm not entirely sure on that fact and there may have been other people present.

10 All right. Now, during the course of that presentation can you recall how it was that Ms Lazarus introduced herself and by that I mean, did you come to understand why she was doing the presentation and what she was seeking to do?---To the best of my memory I believe that she was working towards her PhD at one of the universities in Sydney and that she has a proposed research study that she was asking the medical staff to be involved with at our hospital.

And just in relation to PhD studies, do you recall how it was that she introduced herself in relation to that subject matter?---No, I don't.

20 All right. Now, in paragraph 9 you refer to what I think we should understand as a conversation that you had with Professor Hacker during which an explanation was provided about the subject of referring patients. Do you see that?---(NO AUDIBLE REPLY)

Now, if you could use the time of the presentation that we've just discussed as a point of reference, how long after that did you receive from Professor Hacker the explanation that you refer to in paragraph 9 concerning the referral of patients?---It was probably within weeks or a couple of months I would imagine from that presentation.

30 And insofar as the criteria for patients was concerned, as best you recall, what was the criteria that he conveyed to you?---That patients either had a potential diagnosis of cervical cancer or were in fact already recently diagnosed with cervical cancer.

Now, in paragraph 7 of your statement you refer to the fact that you were working with other consultants who would be seeing patients regarding cervical cancer. Who are the other consultants that you, you were then working with?---Dr Michael Campion, possibly Professor Don Marsden and possibly Dr Sue Valdermere and Dr Greg Robertson also.

40 Now, what should we understand about your day-to-day work either for or with Professor Hacker and his clinic during this period?---I ran the outpatient clinics for all the other consultants except for Professor Neville Hacker, he had a nurse that was designated to his clinic specifically who was Ellen Barlow. So I was not usually directly involved in his patients or his day-to-day activities.

And insofar as the conversation you had with Professor Hacker- - -

THE COMMISSIONER: I don't know what is wrong with the recording system and I don't know whether you're to blame.

MR ALEXIS: I probably am, Commissioner, and the microphone is probably infected with my cold, but- - -

THE COMMISSIONER: I'm not sure. I'm told that steps are being taken to remedy it.

10 MR ALEXIS: Perhaps I could be tapped on the shoulder and told whether to move forward or back or sideways or, or to leave. Now, Ms Knowland, can I just come back to the discussion with Professor Hacker and the subject of referring patients. What did you understand as to the patients that could be the subject of referral to Ms Lazarus as to whether they were Professor Hacker's patients or patients generally of the Gynaecological Cancer Centre?---It would have been my understanding that I would be potentially identifying patients that were not Professor Hacker's patients but that they were under the care of one of the other consultants which I named earlier.

20 And I take it that you came by that understanding because at the time you had the conversation with Professor Hacker you weren't working for him? ---Yes, that's correct.

Now, do you recall speaking with the other doctors that you've just referred to, Associate Professor Marsden, Dr Campion I think and another doctor or two- -?---Yeah.

- - -about the subject matter of referring patients to Ms Lazarus at some future point?---I don't recall actually having those conversations or not.

30 Now, in paragraph 10 of your statement you refer again to the presentation and then you say that you only saw her, that is to say Ms Lazarus, on one other occasion and this was when she was working in an adjacent room to Professor Hacker's clinic. Do you see that?---Yes.

Now, I'll come to some detail, but again using the presentation as a point of reference as to time, are you able to tell me when it was relative to that that you made the observation that you set out in paragraph 10?---To the best of my knowledge and memory it probably would have been within a few
40 weeks to possibly up to six months after that presentation, but I can't give you an exact date I'm afraid.

That's quite a wide time frame. Is there anything that you're able to recall to mind to relate the likely timing of the occasion that you refer to in paragraph 10?---No, there isn't, I'm sorry.

Now, could you explain to us, please the location of the room that you described as the adjacent room to Professor Hacker's- - -

THE COMMISSIONER: It might be helpful if Ms Knowland could see Exhibit 12, please.

MR ALEXIS: Now, Ms Knowland, could I ask you to assume first and foremost that this document purports to be nothing more than a rough sketch intended to depict in a schematic way only the internal geography of Professor Hacker's cancer centre and consulting rooms that are located approximate to that. Do you follow?---Yes, I follow.

10

Now, just coming back to my question, which was seeking to understand the location of the adjacent room that you refer to in paragraph 10 that is adjacent to Professor Hacker's clinic where you made the observation of the single occasion of seeing Ms Lazarus working?---Yeah. So the room I'm referring to is on the bottom row, so the same row as the nurses' office, and where the consulting rooms are, the room would be the middle room. Yeah, that's the one there.

20

THE COMMISSIONER: And where did you sit, where were you, where did you work mainly, where were you generally to be found?---Generally I was found in the room to the left of that room.

Next to the nurses' office?---Next to the nurses' office. That was my office, the nurses' office.

And was the door open there or - -?---They were almost always closed.

MR ALEXIS: Ms Knowland- - -

30

THE COMMISSIONER: Well, you wouldn't have necessarily, you wouldn't have ordinarily seen if Ms Lazarus was there or not?---That's correct.

MR ALEXIS: We've heard some evidence, Ms Knowland, about the time and days of the week that Professor Hacker conducts his clinic. Are you able to recall during the 2007 and 2008 year the days of the week that that clinic operated?---Professor Neville Hacker's outpatient clinics ran on Tuesdays and Thursdays.

40

And can you tell us what occurred on the other days of the working week? ---Yes. He would often be in the operating theatre all day Mondays and often operating on Wednesdays as well and Fridays were, he would often be teaching the junior medical staff.

Did you work on those days of Professor Hacker's clinic?---I worked in the outpatient clinics with other doctors on those days, on the Tuesdays and Thursdays, yes.

And what about Mondays, Wednesdays and Fridays?---I also worked in the clinics or in the adjacent chemotherapy room on Mondays, Wednesdays and Fridays.

And so when, as you say in paragraph 10 of your statement, you saw Ms Lazarus on the single occasion you refer to when she was working in the adjacent room, that's an observation you made in circumstances where you were working in and about the area every day of the week?---Yes.

10 Now, can I ask you to look at paragraph 12 of your statement. And you tell us there about your knowledge from working in the unit of becoming aware that only a very small number of patients had been referred to Ms Lazarus. Do you see that?---Yes, I do.

Now, did you yourself refer any of those?---No, I did not.

And so could you tell us, please, what the source of your knowledge is to say that you'd only become aware that only a very small number of patients had been referred?---That's from conversations that I've had with Ellen
20 Barlow, that she was under the impression that she may have referred a couple of patients to Sandra Lazarus.

And are you able to assist me in identifying again as a matter of timing approximately when in the 2008 year the very small number of referrals had occurred from Ms Barlow?---I'm afraid I'm going to be quite vague again. I really can't recall, but I would imagine it would have been earlier in the year rather than later.

30 In the outpatient clinic, was a general list of patients maintained for the daily schedule?---Yes, there would have been a list of patients.

And who was responsible for the production of such a list?---Depending on which clinic it was, either Neville Hacker's secretary who, whose office was down in the main office, or the admin assistant that worked at the reception desk.

THE COMMISSIONER: Who is that?---Sorry?

40 THE COMMISSIONER: Who is that?---The secretary in the main office would have been Helen.

Yes?---And at the reception desk there was two admin assistants that worked there and that was Oonah Brady and Lorraine Britton.

Thank you.

MR ALEXIS: And just so we're clear, the two receptionists you've identified were those that you recall were working during the 2008 year?

---Yes.

And just going back to an answer you gave a moment ago, you made reference to Professor Hacker's personal assistant, Helen, working in the main offices, and that was a reference to what we see on the diagram Exhibit 12, where it says main offices?---Yes.

10 All right. Now, how was the list produced so that if one wanted to for example see how many particular patients were listed for a day and who they were, how would one go about getting it?---2008 was prior to us having electronic medical records so the list would have been either typed or handwritten by one of the receptionists out of either her computer database that collected the appointments or an actual physical hard copy of (not transcribable)

And with respect to Professor Hacker's patients you've indicated I think that it was Helen that produced that list?---That's correct, yes.

20 And where would that list be kept on the day that it related to?---Um, so there would be um, there would usually be four copies of that list generated by the secretary and she would distribute one to the administration officer that sat at the reception desk and then there would be two given to each of the doctors working in the clinic, so Professor Hacker would have a copy and then either his fellow or registrar that was working alongside him in a separate room and then Ellen Barlow would also be given a copy.

30 Thank you. And in relation to the other doctors who were seeing patients who, who would prepare their list or would Helen prepare the lists for all patients?---No. Oonah would prepare the list for Dr Michael Campion and the other secretary, a second secretary that was in the main office would collate the list for Associate Professor John Marsden and Dr Greg Robertson.

Thank you. And was that list similarly produced in a written form on paper?---Yes.

40 And if you could just step us through the detail concerning the number and distribution of that?---Again, there would usually be four copies produced, one would be given to the admin assistant at the reception desk and then there'd be two copies for the two doctors working in that clinic and a copy for the nurse.

Thank you. Now, in relation to each of the lists for all of the doctors we've just been dealing with - - -?---Yeah.

- - - can you tell us please what information was available on the list?---The patient's full name and whether they were a new patient or whether they'd come for a follow-up appointment.

And I gather something to indicate the time at which they likely to attend?
---Yes, and the time and date, yes.

And the date?---And the date, yes.

Could I just have a moment, Commissioner?

10 Ms Knowland, you referred and identified by name the two receptionists that were working during the period that we are discussing. Was one of them known as or referred to as Shandi?---There is currently a receptionist, a, sorry, an admin officer working at the receptionist desk as I'm aware at the Royal Hospital for Women but she may not have been working there in that, this timeframe.

And she, her name is Shandi or - - -?---Shandi-Lee is her full name.

20 Thank you very much. Now, just coming back to the question I asked you concerning the content of a patient list?---Yeah.

And I think you indicated that it recorded the date and time of the appointment, the patients name, was there any other information you can recall on the list?---Not from the list generated from the secretaries for the, for most of the consultants.

And just so that we're clear, do you recall whether the patient list gave any indication at all as to what it was that the patient was attending for?---No, that information wasn't made available on the list.

30 Thank you. Could I show you this document which has been provided to me. And Ms Knowland if you could just take a moment to examine the document - - -?---Yeah.

- - - and while you're doing that can I just indicate that I've shown you a document which is entitled Patient List and appears to be a continuous printout of information concerning patients attending for the month of April 2008. Is that right?---Um - - -

40 Can I just ask you whether or not my description - - -?---Sorry, yeah, so the - - -

- - - is, is an accurate reflection of the document (not transcribable)?
---Sorry, the title of the document is, sorry, RHW Appointments General Attendance but I, actually this is not a patient clinic list.

Right. Can you just help me by telling me what that document is?---This document is created by a computer software programme called MediScan which is the software computer database that we use specifically only for

the colposcopy clinic of which Dr Michael Campion works for, which only stores the appointments for the colposcopy clinic patients. However, this list will also contain some names of patients that were seen by other consultants in other clinics and that is due to their histopathology often being transferred on to the MediScan database from the pathology service. Which is why there's some unusual times listed or no times at all.

10 Now does that relate in any way, should we understand, to the patient list that's generated on a daily basis that we've discussed?---So this format, the MediScan format may be used to generate a patient list for the colposcopy clinic only. But the patient lists for the gynae-oncology patients it would be created for the other clinics. So all the other clinics except colposcopy would not be created through this format.

And in so far as the patient list generated for the cancer clinic are concerned - - -?---Yes.

20 - - - would they contain any of the information that I think is down the right hand column and the second column in from the right hand side on that document pertaining to results and other matters?---So the visit type may be typed on those lists and it would usually either just say follow up or new patient.

I see. And any further information about the patient then that?---That would be very atypical. I would say, no, that would not usually occur.

Yes, thank you. Commissioner, could we have the document that I've just shown Ms Knowland marked for identification at this stage?

30 THE COMMISSIONER: Yes.

MS FURNESS: Commissioner, that document contains the list of patient names and might I ask that they be returned, for the patient names to be removed before a copy for the distribution of them.

THE COMMISSIONER: Yes. I think it better be handed back to you then.

MR ALEXIS: Thank you Ms Knowland.

40 THE COMMISSIONER: Ms Knowland, have you often seen the patient lists before? I mean is that something that you would look at from time to time?---I would see patient lists every day that I worked in those clinics, yes.

Now would the patient list record anything more then the name of the patient and what else would it show?---It would usually have either their patient identifying number or their date of birth or both.

Anything else?---No.

If there were radiological forms that the patient needed to pick up would that be noted against their name?---Probably not.

And would it ever, would there ever have, what's been described as general information on the side of the name that is relating to the patient?---It would be very rare for that to happen.

- 10 Why would it be put there at all?---The only, I would be completely speculating, but possibly if the patient needed patient transport to be organised for their return back to their nursing home or care facility. Or there might be a reminder for the secretarial staff to obtain some non-clinical information from them. But there certainly would not usually be any clinical information pertaining to their diagnosis or their reason for visit.

- 20 And would there be for example, something like the letters FN next to the name which apparently was said to stand for Fine Needle Procedure or a biopsy procedure?---I've never seen that ever documented in the whole time I've worked there.

- 30 Is there some, is there some rule or some policy or some routine in which just precludes that from happening or was it just provided as a unnecessary and therefore doesn't happen? I mean what I'm really asking you is are you able to shed light on why it doesn't happen?---For two reasons. Firstly, the, the list that was kept at the reception desk, there's absolutely no need for the receptionist to have any knowledge of any clinical plans on performing procedures on patients. That does not change their role in any way, shape or form. Secondly, we do not perform fine needle biopsies in the consulting rooms. So there would be no need for us to even document that either.

Right. And one other question I just want to ask you about. Did Ms Lazarus ever go to you for information that would enable her to recruit patients for her testing?---No, she never did.

- 40 Do you know what is meant by known positives? (not transcribable) and explain that a little better. A statement has been made that Ms Lazarus recruited the patients that either you or both, either you and Ms Barlow or both of you pointed out because they were relevant to the trial as known positives. Did you understand that?---I could hazard a guess as to what that stands for.

Well did that ever happen as far as you're concerned?---Not that I'm aware of, no.

All right. Ms Soars.

MS SOARS: Commissioner, I note the time. I don't think I would finish by 1.00. I would like to get some instructions (not transcribable) first.

THE COMMISSIONER: Yes, but could you not start now or do want to get instructions first?

MS SOARS: I do want to get instructions in particular on the new MFI which we haven't seen. And I'd prefer, I think I'll be shorter if I start again after lunch.

10

THE COMMISSIONER: All right. Mr Hogan, do you have any questions that you - - -

MR HOGAN: I have no questions.

THE COMMISSIONER: All right. Well we'll adjourn until 2 o'clock. I'm sorry Ms Knowland to keep you, but that's how it is.

20 **LUNCHEON ADJOURNMENT**

[12.53pm]