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THE HONOURABLE DAVID IPP AO QC

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 21 FEBRUARY 2011

AT 10.05AM

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THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Yes, thank you, Commissioner. May I recall Ms Helen McGilligan.

THE COMMISSIONER: Yes, Ms McGilligan.

MR ALEXIS: She of course was giving evidence on Friday afternoon when you adjourned.

10

THE COMMISSIONER: Would you be seated Ms McGilligan. Now you're still under that you took on Friday and the section 38 order that I made then still applies to you.

Mr Alexis.

MR ALEXIS: Thank you, Commissioner. On Friday, Ms McGilligan, you'll recall that I was asking you some questions about the requisition book that was available to you at the Gynaecological Cancer Centre in 2008. Do you remember that?---That's right.

10 And what I'd like to do is to show you again the original requisition book, Exhibit 7 in this inquiry?---I left my glasses in my bag.

And can I just take you back to where we concluded things on Friday when we were discussing the subject of the book going missing. Do you remember that?---That's right. That's right.

Thank you. Sorry, you appear to be distracted?---I'm just getting my glasses.

20 Oh, I see?---Sorry.

Perhaps Ms Furness or someone can remedy that?---Right.

Now, you told us on Friday at transcript 509, line 10 and following, that's a reference for the Commissioner, that your best recollection is that the requisition book went missing for about four months. Do you remember that?---That's correct.

30 And the Commissioner asked you from line 20 when you first noticed that the book had gone missing and you'll see your answer, June, July, August, around about then. Do you see that?---That's right.

Now is there anything particularly that you are able to recall to mind which enables you to place the duration of the time when the book was missing to July, July, August, around about then?---Not particularly, no, I can't.

40 All right. Now I'd like you to be shown Exhibit 1 of the examination bundle and if you open that folder, madam, to page 107 in the top right hand corner and madam, if you wish to look at the carbon copy from the original requisition book Exhibit 7, please feel free to do so. But I wish to direct your attention to the copy requisition form at page 107, page 109, page 111, page 113 and finally 115?---Ah hmm. Yes.

And I also wish to draw attention to paragraph 22 of your first statement. It was marked by the Commissioner as Exhibit 28 in this inquiry. And you'll get that on the screen momentarily. Thank you. Paragraph 22 on page 7. Now firstly the file of requisition forms that I've just drawn your attention to are they the same five requisitions you're telling us about in paragraph 22?

THE COMMISSIONER: You can see in 22 you're referring to forms dated 14 July, 2008?---Yep. Yes, I see that.

MR ALEXIS: Thank you. And if we just look at the last sentence of your paragraph 22 should we understand that the four being shown, the five requisition forms by the ICAC investigator you've never seen those requisitions before?---No.

10 And when you say you agree with my question you've never seen them before?---I have not seen these before.

Thank you. Now, do you see in paragraph 23 of your statement you tell us that you'd never heard of Medical and Clinic, called Informatics Consultants Pty Limited or Wish Consulting Pty Limited. You see that? ---That's right.

20 And was that the position before you'd been shown the requisition forms by the ICAC investigator?---I'd never heard of them before these requisitions forms were shown to me.

Thank you. Now, just in relation to this subject in your second statement can I ask whether or not – and I'm looking at paragraph 16 of that second statement on page 4 – can I ask whether you have a recollection of ever seeing Professor Hacker sign the requisition book for the payment of tax invoices presented to him by Ms Lazarus?---No, I haven't.

30 Now, Ms McGilligan, it's been suggested in evidence in this inquiry page 82 of the transcript about line 10 that you had provided Ms Sandra Lazarus with the requisition book after she had asked you for it and it's been suggested also that you said to her that this – that is to say the requisition book – is our book and you handed the requisition book to her. Now, what do you say about that suggestion?---I never gave her the requisition book.

To Ms Lazarus?---No.

Did you ever provided her with any explanation as to how to complete the form of requisition?---No, I did not.

40 THE COMMISSIONER: Would there ever be any reason for you to give her the requisition book?---No, she's not - - -

I beg your pardon?---She wasn't a staff member, she couldn't fill in a requisition form. She had no authority to fill that in.

MR ALEXIS: Thank you. Now, in your second statement paragraph 15 you deal with the subject of correspondence and in that respect can I ask you this. Have you ever come across a situation whilst Ms Lazarus was in

the office at the Royal Hospital for Women where she would draft or type a letter and provide it to Professor Hacker for signature?---No.

Do you have any recollection of any situation like that ever occurring between Ms Lazarus and Professor Hacker?---No, I have not.

It's been suggested, Ms McGilligan, and I'm referring to page 28 of the transcript about line 30 that in relation to the letter at page 26 of Exhibit 1 the examination bundle and perhaps I should go to that first of all, Ms
10 McGilligan?---Mmm.

The folder of documents that's before you in the witness box, if you could open that please at page 26?---Yes.

And it's been suggested that that form of letter was provided to you on a USB, just pausing there, do you know what a USB is?---Ah hmm, I do.

Generally referred to as a computer stick?---Yes, memory stick.

20 Memory stick, thank you. And the suggestion is that that form of letter was provided to you on a USB and you printed that document out. What do you say to that suggestion?---No, I can't recall ever typing that letter.

But do you recall being provided by Ms Lazarus with a USB stick?---No, I don't.

Accessing the form of document on that stick for the purpose of then printing it out?---No, I don't.

30 And do you have any recollection of that document having been printed out from the computer stick being provided by Ms Lazarus to Professor Hacker? ---Not that I'm aware.

All right. Thank you. Yes, thank you, Ms McGilligan.

THE COMMISSIONER: Ms Soars.

MS SOARS: Ms McGilligan, my name is Julie Soars and I'm a barrister for Sandra Lazarus. Just going back to that last exchange between you and
40 counsel assisting in relation to the USB key and the letter, you must accept mustn't you there's a possibility that that in fact occurred, that Ms Lazarus asked you to print out a letter from a USB key and that you printed it and gave it to her for signature by Professor Hacker?

THE COMMISSIONER: Sorry, you gave it to her for signature by Professor Hacker?

MS SOARS: That Ms McGilligan printed it and gave it back to Sandra Lazarus for signature by Professor Hacker, that's a possibility, isn't it? ---Unlikely, he would have normally dictated the letter.

That's, that's going back to the origin of how the letter was created, I'm just focussing on, on just the printing of the letter. It's possible, isn't it, that Ms Lazarus would have, could have asked you to print the letter and you could have printed it for her and returned it to her?---I have no recollection of that.

10

No recollection but you can't definitely say it didn't occur, is that correct? ---I'm pretty, I'm sure it didn't occur.

I just want to go back to paragraph 8 of your first statement, please, which is Exhibit 28 and if you could at the same time open paragraph 5 of your second statement which is Exhibit - - -

THE COMMISSIONER: What paragraph are you referring to?---I've got my first statement here at the moment.

20

MS SOARS: Paragraph 8 of the first statement, Commissioner?---Yes.

Paragraph 5 of the second statement?---Where's the second statement?

Do you have both of those, Ms McGilligan?---Yes, I do, yes, I do.

In particular in paragraph 5 of your second statement towards the end of that paragraph you refer to sometimes seeing Sandra some weeks three times then other weeks not at all, that's correct isn't it?---That's correct.

30

And was that the pattern in which you sort of saw Sandra? Some weeks it was three times a week, some weeks it wasn't any at all?---That is correct.

And that's the pattern over about a year, is that your evidence?---That's about correct, yes.

So on the weeks she was there she was there reasonably frequently, three times a week?---Yes.

40

And then the weeks she wasn't there she wasn't there at all?---No.

That's your evidence?---(NO AUDIBLE REPLY)

And you gave evidence in paragraph 11 of your first statement, if I could just take you to that about some conversations you had about going to lunch. Is that correct?---That's right. Yes, that's correct.

And is it the case that she always declined your offer to go to lunch?---Yes.

And did she say something to you like, in words to the effect she was trying to finish something? Did she give a reason for not going to lunch?---Oh, can I use your computer?

To, to, but she intended to something on the computer?---Do something, yes.

10 You were asked some questions how often you went to the waiting room at the centre, general centre. Do you recall that?---Yes.

And for the Commissioner, that reference is at T-5-0-6, line 20. And you, your answer was you might go there for two seconds if the phones didn't answer. Do you recall that?---That's correct.

20 And that's about as frequently, you went on occasion to the waiting or hardly at all?---There might ring through for a pathology report that had not as yet been filed, so I would get the pending filing and grab the pathology report, run down and hold it through the room. I didn't even go in there because women were, not totally bare, so I didn't go in or if someone was late and the phones are busy in the clinic, I would run down and say Mrs Smith is running a half an hour late.

Is it, it's possible isn't it that Sandra Lazarus may have been meeting patients in the waiting room without your knowledge? That's correct isn't it?---I would see her.

30 If she was only in the waiting room that day, for example, you wouldn't necessarily have seen her would you?---If I didn't go down to the clinic, no.

No. Did you go everyday?---To the clinic?

Yes?---No, no.

So there - - -?---Professor Hacker only had clinics twice a week, Tuesday afternoon, Tuesday all day and Thursday afternoon.

40 Thank you. And when you saw Sandra Lazarus, was she often carrying a bag, a plastic bag perhaps containing things?---Not that I noticed particularly, no.

And what, what was the focus of your attention at this time for Professor Hacker? What work did you do for him at this time?---I did everything that's noted in my statement. I also do all his emails. He didn't attend to his own emails, I did that. And also he had his books and his private practice. I edited four books during, for the time that I was there. I don't know exactly that year if I did it or not. I can't remember.

So is it true that when he had his clinics you were busy meeting patients and dealing with them? Is that correct?---They would come into the office for their, generally, if they're long term, and most of them are long term, they're five years, if they, most of them would come in and say, Hi Helen or I'm here. I go, O.K., see you later, you know. But they knew where to go. If they were brand new patients, they would naturally come to the office first and then they would be directed to the clinic.

10 I see. And did you invoice for Professor Hacker for each patient?---No.

No. But you did a lot of correspondence for him and you were involved in the assisting with the books?---All of it, yes.

And it was a heavy workload I take it?---Yes, it was.

So they're the things that you were focusing on at the time. Is that correct, when you were working for Professor Hacker during 2008?---For the 11 years.

20 I'm just talking about 2008?---Yes.

Thank you. Was Sandra Lazarus allocated a lockable cupboard in which to store materials, equipment, her files?---No.

No. Were you ever asked to allocate her one?---No.

Was it a practice to allocate one to research students?---Not really. No.

30 So if she had to store material just from day to day she would have to leave it, and wanted to leave it somewhere, she could potentially leave it in behind the compactus in the area at the back of the office?---She could have put that there if she wanted to, yes.

She could?---Mmm.

And I put it to you that she did in fact from time to time leave files and a laptop under the cream/white chair, the cream chair in the back - - -?---Not that I saw.

40 Not that you saw?---No.

But you've given evidence haven't you that you didn't frequently go in to the back area there. Is that correct?---Oh, no, I was always in and out of the back area there.

THE COMMISSIONER: Everyday?---Everyday that, files were brought out everyday, we'd have doctors ringing everyday wanting to know about so-and-so, you'd have to get the file, all the clinic files that were pulled for

the Thursday and the Tuesday clinics when they were returned all had to be put back. There was, we were always a little bit behind with the filing so the folders would actually build up and you could spend quite a bit of time in the back room unfortunately.

MS SOARS: I see. Can I take you to paragraph 10 of your first statement, Exhibit 28. Just the last sentence of that paragraph could you read that to yourself. You're intending by this sentence to be talking about no equipment was actually delivered to the office for Sandra during that period, that's correct isn't it?---That's correct.

But there's a possibility it could've been delivered to Sandra elsewhere and you wouldn't have been aware of that?---That's right.

Thank you. Commissioner, could I have access to Exhibit 7 the original requisition book please. It's before the witness I understand. Ms McGilligan, in your statements are you talking about one requisition book or more than one?---Only, only one.

20 And can I show you Exhibit 7?---Ah hmm.

Is that the requisition book to which you are referring in your statements? ---It only goes from – I have a feeling the one we had that went missing was a little bit older than this and it was written in, in Texta gynae oncology on the front of it.

There could've been more than one book circulating within the department at the time, is that your evidence?---No.

30 Okay. I'll go back to my earlier question. Is this the requisition book to which you're referring in your two statements?---(NO AUDIBLE REPLY)

I think it might be helpful if you refer to where Ms McGilligan refers to the requisition book, Ms Soars, so that she knows if you recall what she said about it.

Thank you, Commissioner. Perhaps take you to your first statement paragraph 14 and following through to 21 you deal with the requisition book?---21 you said?

40 From paragraph - - -

THE COMMISSIONER: 14 to 21?---14.

MS SOARS: 14 to 21.

MS FURNESS: Just note, Commissioner, that paragraph 21 refers to two requisition books?--- Number 14 of my first, first statement, the book being locked in a cupboard.

MS SOARS: Could you tell me, you're talking about there's a book comprising of approximately 100 requisition forms numbered in sequence? ---(not transcribable).

10 Yes. And you took about a book – I'm just asking is this the book, Exhibit 7 the book to which you're referring, for example, in paragraph 14 of your statement?---Well, it was a requisition book and it looked very similar. It was the only way I could, depending on who filled it out, I mean, I have a feeling the one I'm talking about had not General written on it it had Gynaecology written in, in Texta, black.

I see. And can I take you to paragraph 20 of your first statement. You refer to a requisition or the requisition book going missing. Is it Exhibit 7 the book that you think went missing?---I can't be aware but I don't think it is. I think it's a different book all together.

20

THE COMMISSIONER: Can I, is your handwriting in Exhibit 7?---I'm just looking for that. Yes.

And what dates?---That one was, Exhibit 8, the 23rd of the 6th.

Of what year?---'08.

And is there, and after that?---It must have been, yes, yes, yes, yes.

30 Well, what does that tell you?---It must have been the book.

Why do you say that?---It's got my handwriting in it.

And because you are basing that answer on the fact that you've said there is only one book, there was only one book?---As far as I'm concerned there was only one book.

In which you wrote?---Yes, for requisitions.

40 Did anyone else write in it or did anyone else sign requisition forms in that, in the book you were using?---Yes, they were, it could be one of the doctors who was getting reimbursed for travel expenses or something like that and I'd tell them to write it up because they were a doctor.

Were you the principal, did you fill out the principal number of, the large majority of the forms in the book?---Generally speaking, yes.

And is that what you find in that book or not?---More of my writing than anybody else's, yes.

MS SOARS: Could I have access to Exhibit 7 please, Commissioner.

THE COMMISSIONER: Yes.

MS SOARS: If I just could take a moment, Commissioner, I haven't had a lot of time to access this book and before I put questions to the witness I want to make sure I have - - -
10

THE COMMISSIONER: How long do you need?

MS SOARS: I'm talking two to three minutes, I, I'm - - -

THE COMMISSIONER: Well, I'll wait for you.

MS SOARS: Thank you, Commissioner. Can we, I'll move on from the requisition book, thank you, Commissioner. Can I take you to paragraph 9 of your first statement?---Yes.
20

And you were aware that Sandra was conducting a research project or a clinical trial within the centre. That's correct isn't it in 2008?---Well, yes. Ah hmm.

And it's entirely normal isn't it if there's a clinical trial taking place that perhaps a student might need to access the requisition book to complete a requisition in respect of work done?---No.

30 It's not normal to your knowledge?---No.

Is that based on previous experience of clinical trials?---Yes.

THE COMMISSIONER: But if a student is to be paid, the students who you had experience with, do they get paid at all to your knowledge?---No, not through the hospital.

So they don't use, is the requisition book only for obtaining payment through the hospital?---The requisition is for equipment generally, like if I need a new desk or a new cupboard, a new chair, we fill in a requisition form. I'd fill it in or, depending, it might have been the other secretary at times, have it authorised by Professor Hacker. We don't need two signatures, we didn't need John Marsden's. And then it would go downstairs to Professor Walters, to administration, his secretary. If he was not available, Vanessa Madunic or the other third in charge would sign it if they agreed to it.
40

What about, are services are ever performed at the clinic for which the clinic has to pay or the hospital has to pay?---No, not that I know of.

And does the research student do anything, do research students generally do anything for which they need to fill out requisition forms?---No, sir.

MS SOARS: Ms McGilligan, you gave some evidence in relation to an electronic form of signature of Professor Hacker on Friday. Do you recall that?---That's right. Correct.

10

And for the, for you Commissioner, the reference is at 503 of the transcript, paragraph 0-10. Ms McGilligan, the only printer attached to your computer at that time was a black and white printer. Isn't that correct?---That's correct.

So any documents printed from your printer would've had to be printed in black and white?---Yes.

Thank you, Commissioner, that's all the questions I have.

20

THE COMMISSIONER: Yes, thank you. Mr Hogan?

MR HOGAN: Yes, thank you, Commissioner. My solicitors have requested the solicitors instructing counsel assisting for any documentation in relation to the ID card for Jessica Lazarus which is relevant to this witness. The documentation - - -

THE COMMISSIONER: Have you got an application, Mr Hogan, or are you telling me this?

30

MR HOGAN: Well, because I'm unable to cross-examine this witness until I have that.

THE COMMISSIONER: When did you request it?

MR HOGAN: I think a letter was sent yesterday.

THE COMMISSIONER: Yesterday?

40

MR HOGAN: Yes. Well, one would assume that there is documentation for the ID form.

THE COMMISSIONER: So it would've been received this morning?

MR HOGAN: Yes. I've spoken to counsel assisting as well. If the investigators for ICAC don't have the documentation I'm happy with that but if they do it's relevant to this witness in relation to how the ID was obtained for Jessica Lazarus at the hospital.

THE COMMISSIONER: Mr Alexis, is there any documentation?

MR ALEXIS: Commissioner, I can deal with this and in doing so I should identify precisely what the request was for. Firstly, it was asked for us to produce the documents submitted by Jessica Lazarus signed by Professor Hacker for Jessica Lazarus to be issued with an ID pass number 3-1-8, I withdraw that, I'm sorry. S-1-8-6-8-1-5. The respondent position is that the document is not produced and can I indicate that as I'm instructed no such document exists. Insofar as the second request is concerned it called for any document or documents detailing when the above pass was issued to our client. In response to that my position is that I prefer not to provide a document that I have which falls into that category until Jessica Lazarus is called and examined and that seems to me effectively completed the scope of the request that was asked for.

THE COMMISSIONER: Mr Hogan?

MR HOGAN: Yes, thank you, Mr Commissioner. Ms McGilligan, my name is Hogan and I represent Michelle Lazarus and Jessica Lazarus. If I could ask Ms McGilligan to have a look again at Exhibit 7 which is the requisition book. You've nominated the requisition for 23 June, 2008, that's one of 30 components - - -?---What number is it, sir?

7-8-3-2-0-6?---Right.

So that's one which has your handwriting on it?---Ah hmm. That's correct.

And then there's also another fall into the category of where you've said equipment or stationery, things like that, small amounts in the hundreds of dollars?---Not stationery only equipment. Stationery was online.

All right. There's some there for design and print, first one?---That was, yes, that was a special brochure for our psychologist Roslyn Robinson. That was, normally doesn't come under the, our online requisition.

And then on 4 April, 2008 - - -?---What number's that?

4 April, 2008, 7-8-3-2-0-3. You filled out that requisition in relation to reimbursing Professor Hacker for his medical indemnity insurance for \$2,700-odd?---I didn't write that but that normally happens, yes.

Then another one on 7-8-3-2-0-4, \$2,400 reimbursing medical indemnity insurance?---That's right.

And you're the contact person there aren't you, Helen?---I am.

So if you're able to identify do you have, you completed handwritten entries in requisitions stretching from June, July - - -

THE COMMISSIONER: Sorry, what's the question?

MR HOGAN: Well, Ms McGilligan's said that she fills out, she did the - - -

THE COMMISSIONER: Just what is the question, please?

10 MR HOGAN: Have you filled out any of the requisitions for July?

THE COMMISSIONER: 2008.

MR HOGAN: 2008?---Yeah, the one for office Macs.

What date is that?---The (not transcribable)

THE COMMISSIONER: What date is that, Ms McGilligan?---It's, that's July.

20

And what is it, date does it say there?---July, '08.

Yes, what day?---What day?

Yes, does it show that?---It doesn't say the day, it says 8 July.

That's all I'm asking. 8 July?---Yes, that's what I said.

30 MR HOGAN: And what about the one for 7-8-3-2-1-7 on 20 October, 2008?---It wouldn't be mine because I wasn't there.

Sorry, you weren't there?---No.

Where were you?---I had left in October.

All right. In any case the author for the requisitions (not transcribable)?
---Yes, I believe that's for Rhonda, yes.

40 All right?---That would be, that would be correct.

So there are requisitions from July and October where the book had to be around to be filled in is all I'm saying?---That's '09, yeah, but we also, that's the 7th, August, September, August, September it must be missing because we used the unit manager's book when we had to.

THE COMMISSIONER: So are there no requisitions signed in August and September?---No.

MR HOGAN: And in your statement you thought it was a six-month period to the best of your recollection in 2010 and - - -?---I think.

- - - then you narrowed that to four?---Four.

And you now, based on the evidence of the requisition book you, you'd say perhaps two, two months, August, September?---This book yes but we did use the unit's book as well when we couldn't find ours.

10 But your best estimate now is two months it would appear that the requisition book has gone missing, being August and September.

THE COMMISSIONER: Well, it's not, it doesn't necessarily follow two months because if the last entry in July is 8 July it depends on when the next entry, entry was in October.

MR HOGAN: Yes, sir.

20 THE COMMISSIONER: And if the next entry was 8 October, for example, it would be three months?

MR HOGAN: There's an entry there that I took you to which is 20 October which I think Rhonda has completed.

THE COMMISSIONER: So there's, is that, does that represent a three and a half month gap, Mr Hogan?

MR HOGAN: Yes, I think so?---27th of the 10th.

30 And how is that the requisitions are filled out in consecutive order, like in sequential order, is that right?---They generally should be, yes. This is 2009.

THE COMMISSIONER: What is?---On here.

MR HOGAN: Yes.

40 THE COMMISSIONER: For what date?---This is Rhonda Farrell's requisition on 27/10/2009.

I see?---The one before that's (not transcribable) on the 2nd, 2009 and there was July 2008.

MR HOGAN: Can you offer any explanation for why 7-8-3-2-1-9 which is after the five relevant requisitions to this inquiry, why that one, 7-8-3-2-1-9 is 2 April, 2008, it's before the July requisitions?---It's 2010 here.

No, 7-8-3-2-1-9?---7-8-3-2-1-9.

Yes?---Rhonda Farrell, TESL conference.

Yes?---Right.

Is that for 2010, is it?---2010.

10 Oh, I've an error in my note. Now, can I, can that be returned. You gave evidence about when you first met Sandra Lazarus on Friday and in your statement which you filled out, your first statement, 25 August, 2010, doing the best you could you were only able to nominate it was either 2007 or 2008?

THE COMMISSIONER: That what?

MR HOGAN: Do you see that, the first meeting with Sandra Lazarus at paragraph 6, last sentence, I believe it was some time in 2007 or 2008. And counsel assisting asked you if you could do any better, if you could try and narrow it and you said, late 2007?---That's correct.

20

All right. And you were also asked whether you really knew what the research project was that Sandra Lazarus was conducting and you said you didn't really know. Is that fair enough?---I knew it was a research into cervical cancer with some equipment that was involved, which I didn't understand, but then again it didn't come under my jurisdiction. So I let her go and do her research and, with her machines.

30 Okay. How many students, research students were there in 2007 with Professor Hacker?---I couldn't give you an exact number, but we have many research people, students coming and going. We had one from Singapore, we have a doctors daughter, I mean, I don't wish to mention names (not transcribable)

No, no, I'm not asking - - -?---No.

- - - just an estimate in 2007?---Oh, there could be three research people going at any one time.

40 What about 2008, how many were there - - -?---Generally on average you could have two to three research students.

Per year?---Oh, easily.

More?---Not more, average two to three.

THE COMMISSIONER: A year?---A year.

MR HOGAN: Now you were asked whether you had ever obtained or assisted Jessica Lazarus in obtaining a security pass for the hospital. Do you recall attending the security office with Sandra Lazarus for her to obtain her security pass?---Sandra Lazarus, yes.

What, what year was that?---2007.

Approximately what month?---I'd say approximately November, December.

10 And you have a specific recollection of going to the security office with her and filling out a form?---I do.

And whose signature is required on that form?---Professor Hacker wrote a letter, this is to introduce Ms Sandra Lazarus as a PhD student who will be attending our unit as a research student in cervical cancer. And would you please issue the necessary security badge for her to obtain access to the hospital. Yours sincerely, Professor Neville Hacker.

20 All right. And is there a form that has to be filled out as well at the hospital, as far you're aware?---I think there is now. I don't know if there was then. We just sent the letter, we took the letter over with his signature on it.

Can I ask did you read the form that Professor Hacker, sorry, the letter that he provided you with to take to the security office?---I typed the letter.

30 If I can ask, can Ms McGilligan be shown and if you could open the folder there, I think it's at page 83 of the Exhibit 1, the bundle of documents. Having a look at that document, does that refresh your memory as to whether that was the letter that Professor Hacker provided or (not transcribable)?---No, it's not.

Was it another letter that - - -?---We're talking about the security offices form?

Yes, yes?---No, that's to Vanessa Madunic and that's got nothing to do with security.

40 All right. What did the letter say from the best of your recollection in the letter to go to the security office?---I just said it.

THE COMMISSIONER: Mr Hogan, Ms, she's said it?---I just said it. To whom it may concern, this is to certify that Ms Sandra Lazarus is a PhD student undertaking research in our Gynaecological Cancer Centre and would you please supply her with the necessary security pass to have access to the hospital.

MR HOGAN: And was a pass provided on the spot or made up?---Yes. Yes.

Sandra Lazarus was photographed and a pass laminated and given to her in your presence?---Yep.

All right. Would you have a look at this pass please. Does that appear to be a valid pass as at 2008, as issued by Royal Hospital for Women?---That would be very similar, but it's a pass, yes. But it's not Sandra.

No, no, I'm just asking about the form of pass, does it appear to be - - -?
---Yep.

10

- - - identical to a pass from Royal Hospital for Women?---From what I recall, I've still got mine, I can't remember - - -

All right. Do you remember whether you met Jessica Lazarus in 2008?
---I've never met Jessica Lazarus.

So you can say quite categorically that you never had any dealings with or met Jessica Lazarus, the person depicted in that pass photo?---Never, sir.

20

And although you concede that with passage of time may be vague as to some details about, you were asked about Sandra Lazarus, you can state you've never seen that woman, had any dealings in 2008 at all?---No.

And if it were suggested that you met her and assisted with obtaining a pass, you can state that that never happened rather than you were mistaken?
---That never happened.

30

All right. And I've covered in relation to the ID pass. Now you state that you have never had any conversations at all at Royal Hospital for Women with a Jessica Lazarus, the sister of Sandra Lazarus?---No, I have not.

Yes, thank you. No further questions.

THE COMMISSIONER: Ms Furness.

MS FURNESS: Thank you, Commissioner. Ms McGilligan, you were asked questions about your escorting Ms Sandra Lazarus to obtain her security pass on Friday with counsel assisting. Do you remember those questions?---I do.

40

And on that occasion and this is at transcript page 491 at about line 48, your response to when that might have occurred was, and I quote, "I could only guess that, that date." And then you said approximately a month later. Do you recall giving that evidence?---Yes.

And is it the case now that your evidence as to the date upon which you did that was a best guess?---A guess.

It could have been as late as August in 2008?---Oh, no. No.

It was 2007?---Yes.

It couldn't have been earlier in 2008 than August?---No.

THE COMMISSIONER: Sorry, it couldn't have been earlier than August, 2008?

10

MS FURNESS: Yes?---No, she - - -

THE COMMISSIONER: As long as it was in 2008, is that your questions?

MS FURNESS: Yes, that's my question, Commissioner?---No.

What about - - -?---(not transcribable) end of 2007, as far as my recollection recalls.

20

Is it the case that your guess as to November, 2007 is based on your assumption that the pass must have been obtained soon after she started work?---That's correct.

Is the date November, 2007, a date that you believe to be correct based on any other event that occurred?---I don't think I gave a, I mean, November, I didn't say November, I said, November, I thought, November, but not a specific date.

30

You indicated - - -?---2007.

Yes?---Yes. She would have, I would have taken it, I think it was around about November, December, 2007.

And that is based on your assumption that - - -?---No. (not transcribable) her appointment with Professor Hacker, which was around about that time of the year and she was to start her research no doubt when she next arrived, she had to have a security pass.

40

Now also when you were questioned on Friday, you were asked and this is at page 492, about line 43, you were asked whether there was anyone else within Professor Hacker's office who would escort someone like a student and you said, probably not at that time?---No, that's correct.

And by not at that time were you referring to 2007?---Yes.

Did that practice change in 2008?---No.

It was still the same when you left (not transcribable)?---My choice of words was maybe incorrect. I generally took the, the new fellow or the student or whatever because it's quite a difficult place to find, the security office. And it's quicker just to take them over and bring them back.

Thank you, Commissioner. Nothing further.

THE COMMISSIONER: Mr Alexis?

10 MR ALEXIS: Commissioner, can I have access please to Exhibit 7 which is the original requisition book that I think went back and with that book in hand may I approach?

THE COMMISSIONER: Certainly.

MR ALEXIS: Ms McGilligan, apologies for leaning over you but I'm showing you the original Exhibit 7 requisition book and I want to start if I can at the requisition with number ending 2-0-9 which is the first of the five requisitions that the inquiry is concerned with, do you see that?---Ah hmm.

20

And I wish to just work backwards and firstly look at the form of requisition ending with the number 2-0-8, do you see that?---Yes, I do.

Thank you. And the supplier there is Dexion, D-E-X-I-O-N, Office, is that right?---That's correct.

And is that your handwriting with respect to the detail on that requisition form?---That's correct.

30 And I don't think we see a date on that, do we, anywhere?---23/6/08.

Thank you very much. And that's immediately underneath Professor Hacker's name, is that right?---That's his title, that's his signature.

Thank you. And did you write the words, "Prof" P-R-O-F, "N Hacker - - -? ---Yes.

- - - above the date 23 June, 2008?---Yes.

40 All right. And just working backwards to the next document ending with the letters, with the numbers, I'm sorry, 2-0-7, again that's another requisition to Dexion Office, is that right?---That's right.

And again do we see the date 23 June, 2008 underneath Professor Hacker's name?---Ah hmm.

And again is that your handwriting?---That is.

And below that a date - - -?---His signature.

Thank you. And below that next to authorising officer is there the date 8 July, 2008 next to Professor Walters' signature?---That's right.

So should we understand then that the requisition 2-0-7 and 2-0-8 were prepared by you on or about 23 June, 2008?---Mmm.

10 And from your examination of those two copy requisitions, do they immediately precede the requisition 2-0-9 and following that are dated 11 July, 2008 next to Sandra Lazarus' name that are the subject of interest in this inquiry?---That's right.

So what does that tell you as to the availability of the requisition book up to 23 June, 2008?---Well, it took a long time to come back from, we sent it on 23rd of the 6th, it wasn't signed by downstairs until the 8th of the 7th and - - -

20 But in terms of your use of the book, your completion of requisitions, what does - - -?---After that - - -

- - - 23 June tell you as to the availability of the book to you?---Well, I obviously had it but it did, I don't know whether these dates are all (not transcribable)

THE COMMISSIONER: I'm sorry, I'm not sure if I understand that answer. You obviously had the book during what period?---Well, that's, that's June and July.

30 2008?---2008.

For the whole, the whole of both months?---Well, it left our office on 23rd of the 6th to go downstairs to be signed by administration.

And when did it come back?---Well, I think that was the time, it was the last time - - -

Well, when did you see it again?---Not for a number of months as I've stated before.

40 After 23 June?---Yeah, I didn't see it much after that, no.

But did you see it at all?---We couldn't find it, sir.

From 23 June?---Around about then, yes.

For some months?---Yes.

MR ALEXIS: You see, Mr Hogan asked you some questions about these two copy requisitions and drew attention to the date 8 July, 2008. Do you remember that?---Yes.

And is that a date relating to - - -?---It's not my writing.

- - - the work that you did on the requisition form or does that relate to something else?---No, that relates to Professor Walters.

- 10 All right. Now, just looking at the requisition ending with the number 2-0-6 is that again a requisition to Sturdy Components in your handwriting?
---Yes.

And again should we understand the date you prepared this requisition was on or about 23 June, 2008?---Yes, it is.

And again does it look like Professor Walters has signed as authorising officer on 8 July, 2008?---Yes, that's correct.

- 20 Yes, thank you, Ms McGilligan. Ms McGilligan, you said in answer to one of the questions put to you by Mr Hogan concerning your ID pass that you still have your pass, is that right?---(NO AUDIBLE REPLY)

And should we understand from that evidence that despite having left the hospital's employ you've retained your access pass?---I've still got that.

And so if you wanted to you would, you would be able to access using that pass secured areas of the hospital?---No, it doesn't work anymore.

- 30 And how, how do we know that or how do you know that?---I went back to help the GO Fund which is a research, sorry, it's a charity, it's a fundraising area of our unit, of the unit, to help out at a particular function and I thought oh, I wonder if I could try that and it doesn't work.

And so you concluded from that, did you, that although you still have the pass available to you it has been deactivated?---Yes, it has.

- 40 Thank you. Commissioner, that's all I have for Ms McGilligan. There seems to be some interest in the original requisition book so perhaps I ought to pause before seeking that Ms McGilligan be excused from further attendance.

MS FURNESS: Commissioner, I just have one matter arising out of counsel assisting's question.

THE COMMISSIONER: Yes.

MS FURNESS: Ms McGilligan, the pass that you have retained, is there a reference to a date on the pass?---I haven't looked at it for years, I wouldn't know. I mean, not years but the date that I obtained you're talking - - -

No, does the pass itself contain a date?---Not that I can recall.

THE COMMISSIONER: Thank you for your evidence, Ms McGilligan, you are excused from further attendance?---Thank you very much.

10

THE WITNESS EXCUSED

[11.07am]

MR ALEXIS: Commissioner, may I now call Dr Thomas Hugh.

THE COMMISSIONER: Please be seated, Dr Hugh.

MS FURNESS: Commissioner, I appear for Dr Hugh and I make an application on his behalf.

20

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

30

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

40

THE COMMISSIONER: Dr Hugh, would you like to give your evidence under oath or would you like to affirm the truth of your evidence?

DR HUGH: Under oath.

MR ALEXIS: Thank you, Commissioner. Sir, is your full name Thomas Jonathan Hugh?---Yes.

And you are employed as the Head of the Department of Gastrointestinal Surgery at the Royal North Shore Hospital. Is that right?---I am.

10 And in relation to this particular matter is it the case that you have provided two statements of evidence, let me identify them by date, firstly 25 June, 2010 and secondly 17 January, 2011?---I did.

Can I provide you please with a copy of each statement and a copy for you, Commissioner.

THE COMMISSIONER: Thank you.

20 MR ALEXIS: And, sir, could you look at each of those two statements and confirm for me that they are copies of each of the statements that I've just identified by reference to the date?---They, they both are.

Thank you. I tender, Commissioner, each of those statements and in doing so can I draw attention to the second of the two which attaches an appointment diary and seems to disclose the identity of patients and I'd seek an order that publication of that material be suppressed.

30 THE COMMISSIONER: Exhibit 30 is the statement of Dr Hugh dated 25 June, 2010.

#EXHIBIT 30 - STATEMENT OF DR THOMAS HUGH DATED 25 JUNE 2010

THE COMMISSIONER: Exhibit 31 is the statement of Dr Hugh dated 17 January, 2011.

40 **#EXHIBIT 31 - STATEMENT OF DR THOMAS HUGH DATED 17 JANUARY 2011**

THE COMMISSIONER: The attachments to Dr Hugh's second statement Exhibit 31 are subject to a suppression order.

**THE ATTACHMENTS TO DR HUGH'S SECOND STATEMENT
EXHIBIT 31 ARE SUBJECT TO A SUPPRESSION ORDER**

MR ALEXIS: Thank you, Commissioner. Now, Dr Hugh, should we understand your qualifications and experience is set out in paragraph 5 of your first statement?---They are correct.

10 Thank you. And you are a conjoined senior lecturer at the University of Sydney at the Northern Clinical School, is that right?---I am.

And you've held that position since about 1998?---Yes, I have.

And with respect to the subject of clinical trials is it the case that you've been involved in such trials at the Royal North Shore Hospital?---Yes, I have.

20 And if we look at paragraph 9 and following of your statement down to and including paragraph 11 does that set out the experience that you've had in that regard particularly with the subject of the funding of those clinical trials from external services?---Yes, that's accurate.

Thank you. Now, should we understand that you first heard of Ms Sandra Lazarus when Professor Ross Smith spoke to you about her?---No, that is not correct.

30 All right. Well, if you look at paragraph 12 of your statement you tell us there that you first heard of her name when she approached a member of your department you there refer to Professor Ross Smith and then you tell us that you were advised by him that Ms Lazarus had monies available et cetera. Do you see that?---Yes, I do.

So how should we understand that you first came to learn of Ms Sandra Lazarus and what she was proposing to do in connection with the hospital? ---I had heard of her through a colleague informally about a month before this. It was only that I was approached by Professor Smith and told her name.

40 I see. And where was the colleague from?---My colleague was working at Royal North Shore Hospital.

All right. Now, the information that was conveyed by the colleague did that have anything to do with the work that she was proposing to undertake at the hospital and did it have anything to do with clinical trials or anything of that nature?---Indirectly in that it was pure hearsay about work at another hospital.

I see. All right. Now, you see there that you refer to being advised by Professor Ross Smith in the second sentence of paragraph 12. Can you tell us as best you can what it was that Professor Smith told you?---It was simply that a research student had approached him and was interested in doing some research within his department and that she did have some external source of funding and that's essentially what he said.

10 All right. So independently of that communication did you have any knowledge at all as to what capacity, if any, Ms Sandra Lazarus was working at or came to be working at the hospital or working with or for Professor Smith?---No.

And just so that we're plain with one another and I'm seeking to focus on the period prior to November 2008, do you follow?---Yes.

Now, did you have any knowledge prior to that time, that is, November 2008 of the conduct of any clinical trials by Ms Lazarus involving the device known as the Medex device?---I had never heard of this prior to this.

20 All right. And when you say prior to this you mean prior to being spoken to by ICAC investigators with respect to this matter?---I had been visited by investigators from the Northern Sydney Central Coast Area Health Service prior to that and that was the first time I'd ever heard of these devices.

And you understood that they were from the Internal Audit Unit, is that right?---Yes.

30 Thank you. So we see there in paragraph 18 of your first statement that you'd never heard of the Medex device being used to detect or diagnose cancer being used at the Royal North Shore Hospital, is that right?---I'd never heard of this.

And that's prior to being approached by Internal Audit staff, is that right? ---Yes, that's correct.

40 Now, in paragraph 21 of your first statement you refer there to an occasion when you were shown an internal hospital extension number that Ms Lazarus has used. Now, can I just seek to understand from you what you were there referring to? What was it that you were shown?---The internal investigators or Internal Audit team had identified an extension number that this individual had used within the hospital. When I asked them if they knew where that was in the hospital they did not know so I rang the switchboard and asked them to tell me where the extension number was on their screen and they told me it was level 8 in the Kolling building.

And that was the telephone extension by which you were able to identify that that extension had been used by Ms Lazarus, is that what you say?---I

simply knew that that was Professor Smith's research office on level 8 in the Kolling building.

And how did you come to learn of the particular number that was the subject of that inquiry?---Because the internal auditors had that number already they just didn't know where it was and I assisted them in finding out where it was.

10 All right. Thank you. Now, in paragraph 23 of your first statement you tell us that you had no knowledge of the various corporate entities referred to in that paragraph Wish Consulting, Medical and Clinical Informatics Consultants or Complete Health and Medicine. And should we understand, Doctor, that that lack of knowledge was the position until you were spoken to by the Internal Audit Unit staff?---That's correct.

And should we understand that the first time you became aware of those corporate entities was when you were shown by those staff members certain non-order vouchers?---Correct.

20 Now, before in the witness box, I withdraw that, Doctor. I wish to show you the examination bundle Exhibit 1 in this inquiry. You will see that there is a tab entitled Royal North Shore Hospital within that bundle and behind it should be page 206. Could you go to that please. And firstly, could you look at the vouchers on page 206, 208, 210 and 212. And do we see that those four vouchers appear by reference to the date adjacent to signatures to be dated 31 October, 2008?---I do.

30 Thank you. And could I also draw attention to a further series of non-order vouchers at pages 214, 216, 218 and 220. And do we see with respect to each of those four vouchers that they bear the date 11 November, 2008, again adjacent to the signatures?---I do.

Now in respect of the second series of vouchers, can I provide you please with what appear to be the original vouchers. Just so we're clear I've provided you with what appear to be the originals of the copy vouchers at 214, 216, 218 and 220. Do you see that?---Yes, I do.

40 Now at paragraph 27 of your first statement you refer to the signatures on each of the forms and I'm referring to the forms in respect of both dates. And you say that the signature appears to be your own signature and then you go on to say that you believe that your signature has been copied from other non-order vouchers on to these vouchers. Do you see that in paragraph 27?---I do.

Now having had the benefit of examining the original or what appears to be the original of the second series of vouchers dated 11 November, 2008, does the evidence that you give in paragraph 27 of your statement remain as you've expressed it?---Yes, it does.

Thank you. Now I just want to examine your statement of belief that your signature has been copied from other vouchers that you say in paragraph 27. How could that be?---The reason I made that statement is because I did not sign these vouchers as filled out as they are. I simply didn't sign them. I could only conclude that they must have been copied because I never filled in blank requisition forms.

10 And may we take it from the belief that you give us in paragraph 27 that you have from time to time prior to October, November, 2008, signed non-order vouchers?---I have.

THE COMMISSIONER: What are, what are non-order vouchers?---Non-order vouchers are the terms used by the hospital to purchase things like office equipment, stationery, computers, printers.

And how are they distinguished from order vouchers?---I cannot answer that. I don't know.

20 Why are they called non-order?---I don't know.

MR ALEXIS: But sir, is your experience with respect to signing non-order vouchers prior to October, 2008, that they by and large related to stationery and the like?---Yes.

In other words items of relatively small expenditure?---Yes.

30 THE COMMISSIONER: And why do you sign them?---Because I am head of the department and therefore I am the authorising officer to sign such items.

And do you say that you've never signed them in blank?---I never signed blank requisition forms.

And then, but what makes you say that you haven't signed these vouchers that are in front of you now?---Because it was put to me that these were signed by me and I said that I did not sign these forms as they are filled out and because I also did not sign blank forms, it must have been copied.

40 And how do you know you didn't sign them as filled out?---Because I am very pedantic about such issues.

Well what is there about them that would lead you to the conclusion that you would not have signed them as filled out?---There are multiple issues. Firstly the amounts. The large amounts I would have been very conscious of that I didn't sign for those amounts at that time. As I said before it was for small items, computers, stationery, et cetera.

MR ALEXIS: Could I just ask you to pause there?---Yes.

If we were to look at the four non-order vouchers that bear your signature or what appears to be your signature on 31 October, 2008, it would seem would it not that the sum total of the expenditure being referred to in those invoices is about \$52,000?---It appears that way, yes.

10 And similarly in relation to the four non-order vouchers that contains a signature that appears to be yours of 11 November, 2008, the sum total of the expenditure referred to in each of those, each of those orders is similarly about \$52,000?---Yes.

So is that the first pointer that you identify as being of assistance in expressing what you have already in the witness box about the authenticity of this signature?---It's an alarming pointed. I did not sign these requisition forms.

20 For \$52,000 or any other sum?---For, for that amount of money or for any of the items on the requisition forms.

All right. Well let's go back to each of the voucher forms and can you identify any other pointers which assist in you telling the Commission that you did not sign these vouchers?---The items requested, firstly.

Ah hmm. And what is it about those items which you rely upon?---I've never heard of those items at all. I had no knowledge and therefore would not have signed those requisition forms no matter what the amount was.

30 Ah hmm. Is there anything else on the forms?---The forms have an incorrect name. My, my surname is used as my Christian name and vice versa on the first four forms, so they were typed.

All right. Well let's just get that clear. So on page 206, and it's off assistance to identify them by reference to the page number of the examination bundle, if you follow. So on 206 you're referring the Commissioner to the transposition of your Christian name and surname immediately below the surname and Christian name of Sandra Lazarus. Is that right?---It is.

40 Do you remember signing any document which has got an arrow between your Christian name and surname?---I did not.

And, and do we see that feature repeated on the voucher at 208?---Not for the second batch of requisition forms, but for the first.

Yes. So what you're telling us is that the voucher at page 208, the voucher of 210 and the voucher of 212, each bearing date 31 October, 2008, appear to transpose your Christian and surname. Is that right?---Correct.

The following four vouchers have got it correct?---Yes.

Thank you. Now is there anything else which you rely upon as a pointer with respect to each of these vouchers?---My title, Doctor, Head of Department, was something that my secretary or I would have recognised as foreign. That is not the way we referred to my title.

10 THE COMMISSIONER: What is the correct way?---Head, Department of GIT Surgery, which is Gastrointestinal Surgery.

MR ALEXIS: Is there a further feature we should understand about each of these vouchers which you rely on, perhaps in reference to the dating?---The dating on each of the vouchers is not my writing and I am fairly pedantic about these issues and would have dated them at the time of signing.

20 So you're referring to us to the date immediately adjacent to what appears to be your signature on each of these voucher forms, that is the 31 October date and the 11 November date, each in handwriting, not being your handwriting?---Correct.

Thank you.

THE COMMISSIONER: Is the cost centre number the cost centre number of your department, doctor?---It is the cost centre number for, for what is known as general surgery, which is different from gastrointestinal surgery. So again, that's an unusual cost centre requisition number.

30 Would it not normally appear on a normal order voucher?---It would normally appear as the cost centre for the Department of Gastrointestinal Surgery, not general surgery. There are two cost centres for which I am nominally involved in in general surgery. But we requested all of our small purchased out of the cost centre of gastrointestinal surgery not general surgery.

MR ALEXIS: Commissioner, I tender the four original voucher forms bearing date 11 November, 2008.

40 THE COMMISSIONER: I am just trying to see a way, Mr Alexis, of distinguishing between them. Are they, are they different amounts? No, they're the same amounts. They seem to be, well, they're not identical but they are quite, they relate to different invoices.

MR ALEXIS: Commissioner, they are what appear to be the original of the copy non-order vouchers at pages 214, 216, 218 and 220 of Exhibit 1.

THE COMMISSIONER: Sorry, 214, 216?

MR ALEXIS: 218 and 220 of Exhibit 1.

THE COMMISSIONER: Well, we need to identify, all right. The non-voucher dated 11 November, 2008 relating to invoice number 0-0-0-9-2-2 is Exhibit 31A, 32A I beg your pardon.

#EXHIBIT 32A - ORIGINAL NON-ORDER VOUCHER DATED 11 NOVEMBER 2008 RELATING TO INVOICE NO 000922

10

THE COMMISSIONER: The non-voucher dated 11 November, 2008 relating to invoice number 0-0-0-1-0-1-4 is Exhibit 31B, 32B I beg your pardon.

#EXHIBIT 32B - ORIGINAL NON-ORDER VOUCHER DATED 11 NOVEMBER 2008 RELATING TO INVOICE NO 001014

20

THE COMMISSIONER: The non-voucher dated 11 November, 2008 relating to invoice number 2-0-0-8/0-1-0- is Exhibit 32C.

#EXHIBIT 32C - ORIGINAL NON-ORDER VOUCHER DATED 11 NOVEMBER 2008 RELATING TO INVOICE NO 2008/010

30

THE COMMISSIONER: And the non-voucher dated 11 November, 2008 relating to invoice number 2-0-0-8/0-1-4- is Exhibit 32D.

#EXHIBIT 32D - ORIGINAL NON-ORDER VOUCHER DATED 11 NOVEMBER 2008 RELATING TO INVOICE NO 2008/014

MR ALEXIS: Thank you, Commissioner.

40

THE COMMISSIONER: Is there some explanation for these different invoice numbers, Mr Alexis? Do we know?

MR ALEXIS: When you asked me, Commissioner, for the different invoice numbers you're referring I gather to the invoice number that you've identified as part of the process of identifying each document - - -

THE COMMISSIONER: Yes.

MR ALEXIS: - - - as an exhibit.

THE COMMISSIONER: Yes. So you'd find that under, in the middle of the page under paragraph 4 in each document?

MR ALEXIS: Yes, yes, yes.

THE COMMISSIONER: Yes.

10 MR ALEXIS: They relate to the invoice so numbered which were submitted with the non-order voucher as they are presented in Exhibit 1 from the pages I indicated starting at 214.

THE COMMISSIONER: And where does one find the invoices attached to each one of them? I see.

MR ALEXIS: Yes, so if you have - - -

THE COMMISSIONER: I understand now, yes, thank you.

20 MR ALEXIS: Now, Dr Hugh, can I just ask you some questions about the cost centre number and the account number and you tell us in paragraph 28 of your first statement that those numbers relate to the Department of Gastrointestinal Surgery, is that right?---That's what is written there, yes.

And is what's written there correct or not?---The cost centre numbers have changed slightly so it is not correct.

30 But we're interested in the period when the non-order vouchers were prepared and apparently signed. Does paragraph 28 correctly identify the cost centre number and the account number at the time and have they subsequently changed or - - -?---I believe it represents the cost centre number for general surgery not the Department of Gastrointestinal Surgery as I've stated in that paragraph.

Yes?---There is a different cost centre number.

40 Thank you. Now are you able to assist us in understanding how one could obtain the cost centre number and the account number for either the Department of General Surgery or the Department of Gastrointestinal Surgery in October or November of 2008?---It would have to be, have been obtained from my secretary or from the hospital itself, from the administration.

Now in so far as your secretary is concerned, should we understand that she was in a position of some difficulty at about the period of time that we're dealing with, and I'm referring in particular to paragraph 30 of your first statement?---That's correct.

And so during her absence is the position that her secretarial area was not being staffed. Is that right?---Intermittently it was being staffed by other secretaries on the floor.

THE COMMISSIONER: But were there, were there intermittent period where, where there was no one there?---Long periods at a time when she, my secretary was ill and it is possible that the room could have been accessed by other secretaries on the floor because the photocopying machine was in our room, was in, was in her office.

10

MR ALEXIS: Now you tell us in paragraph 31 that as a matter of practice, I think, your secretary would handwrite non-order vouchers that were presented to you for signature. Is that the position?---That's correct.

And so in so far as the non-order vouchers that I have taken you through typed, what do you say about that in terms of what your secretary normally did and the form of vouchers that were normally presented to you for signature?---It's not something that she did routinely. It was a little irritating but it was just what you had to live with.

20

All right. Now finally could I come to your second statement which provides us with some information concerning your schedules on the two days in question, 31 October and 11 November, 2008. Could we firstly look at paragraph 6 of your second statement, and by reference to the last of the documents that you've attached to your statement, are you able to tell us about the schedule that you had on that day?---Yes. I apologise again for the names of the patients being displayed here.

THE COMMISSIONER: Well, it's, it's unavoidable but they will not be revealed to the public?---Thank you. Yes, I have appointments, I see patients on Friday morning in my consulting rooms in Christie Street in St Leonards. And on that occasion I was there all morning and my usual practice is to remain in the office all afternoon, often until 6.30 or 7.00 at night, completing the paperwork, the issues for the next week with regard to my clinical work.

30

MR ALEXIS: Yes. I was just going to ask you about that because in paragraph 6 you tell us that you consulted in your private rooms at Christie Street all of that day. Do you see that?---Yes, I do.

40

And your rooms in Christie Street, is that in a particular building?---Yes, it is.

And what - - -?---It's in the AMA House in Christie Street.

Thank you. Now when one looks at the appointment book for that day, you appear, at least according to the appointment book to have concluded your last consultation around lunch time. Is that right?---That's correct.

And we should understand that you nonetheless continued in your rooms all day to complete the paperwork you just referred to?---Yes, I do that each Friday.

All right. And with respect to the second of the two days we're concerned with 11 November, 2008 should we understand that you were operating that day?---I was.

10 And how should we understand that from the first of the two documents you've attached to your statement?---On the first of the two documents again it shows my operating schedule over a number of weeks and on the top Tuesday, 11 November I was operating on a very complicated case and there were probably several other cases during that day. It's a full day operating for me in Royal North Shore Hospital and I spend all day in the operating theatre.

So at the top of one of the pages there's a reference to an incisional hernia repair, do you see that?---Yeah, that's correct.

20

And there at the bottom of the next page there seems to be a number of other procedures referred to on 11 November, 2008?---Yes.

We should understand that as being a full day in theatre?---That's a full day.

Thank you. And in and amongst seeing patients and attending to paperwork on 31 October and operating on 11 November what do you say as to the suggestion that it was Lazarus attended upon you and obtained signature on the non-order vouchers to which we've referred?---I have never met Sandra Lazarus ever.

30

Now, Commissioner, - - -

THE COMMISSIONER: But apart from not meeting her I gather that the effect of your evidence is that it would not have been possible for a (not transcribable) student to have come to you on those two days to get your signature to a non-auditor?---Well, it might've been possible but she didn't because they'd never met Sandra Lazarus ever.

40 But could she have come if you were doing surgery all day?---Well, she could've come into the operating theatre theoretically but that would've been a fairly big disturbance. I would've had to have unscrubbed from the case, communicated with her and signed those requisition forms none of which occurred.

And on 31 October having regard to what you were doing that day she could've come to the office Christie Street?---It is possible but my practice is that I have an administrative office where I do all of the research and

administrative issues within, on the campus at Royal North Shore Hospital not in Christie Street which is my private consulting rooms.

MR ALEXIS: Now, with your permission, Commissioner, I'd ask Ms Sandra Lazarus to stand up. I see that she's in the back of the - - -

THE COMMISSIONER: Would you mind standing (not transcribable)?

10 MR ALEXIS: Thank you. Dr Hugh, Ms Lazarus has just stood up and having identified her do you still maintain the position that you've just given evidence about that you've never seen her before?---Yes, I do.

Thank you. Ms Lazarus, you may sit down, thank you. Now, it's been suggested, Dr Hugh, and, Commissioner, I'm referring to page 477 of the transcript from about line 25 - and, Doctor, that's a reference for the Commissioner - that on two occasions Ms Lazarus met you in your office, I'm unable to identify which office but if I can just complete the thrust of the suggestion. She introduced herself to you by name and she also told you who her supervisor was, that is, Professor Ross Smith. She told you that she
20 had non-order vouchers, that the payment was for, referred to on the voucher was for clinical trials that's being conducted. She referred to the company on each of the vouchers and it's suggested that you looked at the documents, there was a brief conversation about them, there was no question about any clinical trial, there was no question about what the purpose of the trial was and that you signed the four vouchers where it is indicated on each of them by your signature. What do you say about each of those suggestions?---None of them are true. I did not sign any of these requisition forms and I did not meet with her and discuss any of these
30 issues.

Yes, thank you, Dr Hugh.

THE COMMISSIONER: Ms Soars?

MS SOARS: Commissioner, might I have access to the original non-order vouchers 32A to D. And might I just inquiry of my learned friend whether the originals of the other set of four non-order vouchers have been able to be located.

40 MR ALEXIS: Not available.

MS SOARS: Not available. Commissioner, I would like to just take a short adjournment of ten minutes.

THE COMMISSIONER: When you say not available they don't exist, they're not in our possession?

MR ALEXIS: The originals of the four vouchers that I can identify as bearing date 31 October, 2008 are not available. The others were obtained -
- -

THE COMMISSIONER: When you say not available?

MR ALEXIS: Not available in the possession of the Commission.

10 THE COMMISSIONER: They're not in the possession of the Commission?

MR ALEXIS: Correct. The other four that became Exhibit 32A to D inclusive were obtained from Ms Lazarus' home upon execution of the search warrant.

THE COMMISSIONER: Right. Yes, Ms Soars, you requested a short adjournment?

20 MS SOARS: I do. I wish to go through these original documents with my client and I wish to just take instructions on some of the evidence that Dr Hugh has given.

THE COMMISSIONER: Yes. This is very important evidence as I'm sure you understand and I know you do. I think, I am suggesting that it may be a time to consider very carefully whatever position Ms Lazarus intends to adopt.

MS SOARS: Yes, Commissioner, I do wish to take those instructions.

30 THE COMMISSIONER: Yes. We will now adjourn.

SHORT ADJOURNMENT

[11.46am]

40 MS SOARS: Dr Hugh, my name is Julie Soars, and I'm the barrister for Sandra Lazarus. Dr Hugh, you gave some evidence and in answer to counsel assisting in relation to the clinical trials you've been involved with. And you've dealt with that a paragraph 8 of your first statement and in paragraph, through to paragraph 11. It's correct isn't it that it's usually a matter between the researcher and the external sponsor as to what rate they're going to be paid in respect of the research they carried out?
---Yes, that's correct.

It's not something the hospital normally gets involved with?---The, no, that's not quite correct. If the funding were available then that would be

negotiated with the department and with the hospital as to where that funding went and how much that, that individual was paid.

So it's something you would find out about once you knew the funding was in place, like for example the hospital wouldn't get involved in the negotiations between the researcher and the external sponsor about rates of pay?---That's correct.

10 And the hospital wouldn't, apart from a clinical trial agreement, contract with either the external sponsor or wouldn't contract with the external sponsor?---I don't believe so, but it would be, it'd depend on the type of appointment that individual had.

And the hospital wouldn't normally have a direct contract with the researcher either?---I don't believe that's the case.

THE COMMISSIONER: But if the money is deposited in a trust, does that happen?---Yes. Money can be transferred into a trust fund and then - - -

20 What trust is that? Is that managed by the hospital?---Yes, it is. So the, the requisition to pay that individual would be made to the hospital, but it would have to be signed off by an authorising officer and usually that's the head of the department.

30 But the arrangements leading to the trust would be made between the hospital and the sponsor wouldn't it, normally?---Yes. I suppose if they were paying the funds they would negotiate which trust fund or which cost centre to put it into and they would direct that money to there. In fact they wouldn't have to directly negotiate with the hospital, they would provide the funds and then the department would then communicate with the hospital and place it into the appropriate cost centre.

40 But how does the hospital know that it's got to, I mean, I'm just querying this proposition that the hospital wouldn't have a contract with the sponsor, because the sponsor is not going to pay money into a trust without an agreement that the hospital is going to at least supervise the research. I mean otherwise the hospital could do what it likes with the trust?---Correct. And this is not something that the Department of Gastrointestinal Surgery has been actively involved in. I have been involved in it directly through the Department of Medical Oncology in these clinical trails. But in terms of placing large amounts of money into a cost centre and then paying an individual, I haven't been involved in that as Head of the Department of Gastrointestinal Surgery. So I can't provide any more information in that regard.

MS SOARS: So it's correct you don't, can give any more detail about what occurs in relation to those clinical trials as between the sponsor and the

hospital?---That's true, it's nothing that we do in the Department of Gastrointestinal Surgery?

Dr Hugh, you gave some evidence in relation to your secretarial cover during the period and how your secretary was on leave ill, that's correct, isn't it?---That's correct.

10 And you've provided a, attached to your second statement a schedule which you refer to in your second statement at paragraph 5 as having been compiled by your practice manager or secretary?---That's correct.

And who, who was that at the time, in, as at the end of October and into mid-November, 2008?---With regard to my administrative office on the campus or with regard to my consulting rooms privately?

We'll take it one by one?---Okay.

20 So your administrative office on the campus?---I have a full-time a four day a week administrative assistant at the moment but at that period of time my administrative assistant was on leave.

Because she was ill?---Yes, correct.

And in relation to your rooms at Christie Street, St Leonards, do you have a practice manager or secretary there?---Yes, I do.

And that, that person has continued in that position since 2008?---That, they have, yes.

30 So in relation to anyone who came to your rooms at Christie Street, St Leonards, there would have been a secretary there during that period? ---Yes, there would have been.

Can I take you to paragraph 27 of your first statement, Exhibit 20, 30, sorry. If you could read the last sentence to yourself and then I want to ask you some questions about it?---Ah hmm.

40 Where would you keep non-order vouchers that have been signed by you, if that's what you're suggesting in that paragraph?---Non-order vouchers would have been signed by me when presented by my secretary, personal assistant, completed and then they would have been submitted for payment so we wouldn't have kept signed unfilled in requisition forms on non-order vouchers anywhere.

And would you have kept signed completed non-order vouchers anywhere? ---They were usually taken to the administrative offices for payment, for submission for payment by my secretary.

So they would be taken to effectively the accounts or administration section?---Yes, the accounts department, yes.

But you wouldn't retain a copy?---(NO AUDIBLE REPLY)

I'm just trying to understand what you're suggesting in that paragraph about access to the non-order vouchers?---Well, I can't tell you whether my secretary kept a copy, she may very well have kept a copy in a filing cabinet within our office, that's true.

10

And this is secretary at Christie Street?---No, this is my secretary in my administrative offices on the campus of Royal North Shore Hospital.

THE COMMISSIONER: Why do you say that, I understand your evidence that you say that you say that you didn't sign these documents, doctor, that's very clear, but what I'm not sure of is why you say that your signature, and I also understand the thrust of your evidence is that because you didn't sign the documents your signature must have been copied but what I don't understand is why you say that it's been copied from other non-order
20 vouchers. Why couldn't it have been copied from other documents?---Well, it could have been quite easily. I simply made that statement because I presumed and that's, that's, I did sign non-order vouchers many times over the preceding two years and I presume that's where it came from. I couldn't imagine where else my signature could have come from. I suppose it could have come from clinical records, that's possible.

MS SOARS: But you accept in paragraph 27 that you're speculating as to where your signature might have been able to obtained?---Correct.

30 You don't know?---I don't know where it was obtained or how it was obtained but I know it wasn't my signature on that completed form.

Can I show you Exhibit 32A, B, C and D. There's no date against the signature block in each of those forms, your signature in the block. That's correct isn't it?---That's correct.

THE COMMISSIONER: Sorry, which, which are you referring Ms Soars, I don't quite follow.

40 MS SOARS: Commissioner, the copies in the bundle are different to the originals. I'm getting to that point.

THE COMMISSIONER: Oh, I see.

MS SOARS: I think Mr Alexis said before that the originals came from Ms Lazarus' house.

THE COMMISSIONER: Mmm.

MS SOARS: I think the copies in the bundle have been stamped internally by accounts and there's no evidence as far as I'm aware of the completion of the date, which, it's not obvious on the face of the documents about the completion date.

THE COMMISSIONER: I understand, you've explained it. Thank you.

10 MS SOARS: And the dates saying you completed in the copy for the accounts department. Having seen the originals of these forms, Dr Hugh, I suggest to you that that is your signature on each of the forms?---It's possible that that's my signature. It's not a standard way of doing my signature. Certainly 32B looks more consistent, the others are more of a variation.

But you accept for example, that there's a variation of signature especially when you sign a number of times?---Yes, I do.

20 And there's nothing about the signature on any of those forms that indicates to you that it's not your signature is there?---Only that the three of them are unusual variations of my signature. That's all.

THE COMMISSIONER: Sorry, what do you mean, the unusual variations being?---It's not the normal way that I sign my signature, but I accept that it could be a variation if I was in a hurry.

30 MS SOARS: And I take it therefore that you've conceded this possibility that you cannot deny on oath that that is your signature on each of those forms, 32A through to 32D?

THE COMMISSIONER: Well, I think if you can answer that question by reference to the document as a whole. Do you understand what I mean?---No, can I get clarification on that question, please.

Well, I mean, well look I think - - -

MS SOARS: I object.

40 THE COMMISSIONER: I beg your pardon?

MS SOARS: I object.

THE COMMISSIONER: You object.

MS SOARS: I apologise, Commissioner, no disrespect to you, but I - - -

THE COMMISSIONER: No, no, I just - - -

MS SOARS: - - - I'm going to object to your questions if - - -

THE COMMISSIONER: Well let me put the question again. Well, I don't think that you can ask that question. It's not helpful. I mean you can ask it, but I can tell you that I'd regard it as entirely unhelpful because Dr Hugh has explained in detail why the signature on this particular form could not possibly be his. So if you are saying to him, ignore all the rest of your evidence and focus only on the signature, you're not able to deny that your, the signature is yours, that I regard as entirely unhelpful, because it is so
10 unrealistic to divorce the signature from the document. That's not the task that this Commission will undertake. And so, so it's entirely unhelpful. Perfectly proper to say to him, look at the form and taking into account everything that you've said about why you wouldn't have signed this document, you can't deny on oath that it's your signature. That, that would be a helpful question. But to say ignore every other factor to which you have referred which leads you to believe that you haven't signed it and focus only on the signature alone in a vacuum, is not helpful. But in the light of your objection, Ms Soars, I'll allow you to ask the question.

20 MS SOARS: Thank you.

THE COMMISSIONER: But I can tell you it's going to carry no weight.

MS SOARS: Thank you, Commissioner for clarifying that. In relation to some matters, they're matters for submission. But I accept what you say and I will consider that in the light of my questions. Thank you.

THE COMMISSIONER: Yes, very well.

30 MS SOARS: Dr Hugh, in the light of the evidence you've given today, which included some reasons that justify now why you think you wouldn't have signed that, do you on oath deny that that is your signature in the forms which are Exhibits 32A to 32D?---No.

You don't deny on oath?---I don't deny it.

THE COMMISSIONER: I just want to understand that. Does that mean that you could possibly have signed these forms?---I did not sign these forms as filled out. It is possible that this could be my signature, but I did
40 not sign these forms as they are filled out.

And you said also, I mean please, please correct me if I'm wrong, my understanding is that you wouldn't sign the forms in blank?---I never sign blank forms.

So if you never sign blank forms and you wouldn't have signed these forms in the form they are in, what do you say about your signature on them?---I don't know, Commissioner. I don't understand why my signature is there.

And that's why in my written evidence I suggested they may have been copied. But I simply do not know.

All right.

10 MS SOARS: Did you have any conversations with Ross Smith after the signing of these, the date of these vouchers in relation to the signing of these vouchers?---The only conversation I had with Ross Smith regarding this issue was after the internal auditors came and spoke with me at length about what had happened and I identified for the internal auditors the extension number on level 8 in the Kolling building and that it was therefore presumably linked with Ross Smith. I rang Ross Smith and asked him if he had employed or had had involvement with Sandra Lazarus and he said that he had. And I had told him that I had just been visited by the internal auditors and that this issue had occurred. And I said to him that there were a number requisition forms presented to me, many of which I signed as completed. That was the extent of the conversation. And he confirmed that he did have communication and that Sandra Lazarus had come into the Kolling building for a period of time.

20

THE COMMISSIONER: Well I'm still, still not actually understand your, one of your answers, Dr Hugh. If you say that you wouldn't have signed the form with the details on it and you wouldn't have signed the form in blank, then how, how is it possible that this is your signature?---I presumed that someone had copied it and this was not an original. That's all I can presume.

30 Do you, do you deny that this is, that you signed this document, these documents, four documents?---I deny that I've signed these documents as they are completed in front of me. And - - -

You deny that you signed them in blank?---Correct.

All right.

MS SOARS: But accept there's a possibility that that's your signature on each of the documents?---Yes, I do.

40 Yes. And you had a conversation with Ross Smith didn't you in which you said if you had signed the documents you didn't know the reason for doing so. And Commissioner, that's 322T?---I understand, I understand that's what Ross Smith said at this inquiry. But that is not what took place. I spoke with him and said that I was presented with a number of requisitions that had been apparently signed by me and completed. And that I had no knowledge of ever signing these completed requisition forms. That was the extent of the discussion that I had with Ross Smith.

Thank you, Commissioner.

THE COMMISSIONER: Yes. Mr Hogan.

MR HOGAN: I have no questions of Dr Hugh, sir.

THE COMMISSIONER: Ms Furness.

10 MS FURNESS: Thank you, Commissioner. Dr Hugh, is it the case that the possibility that you gave evidence of in answer to questions to Ms Soars, is a possibility that some other person may have affixed your signature to one or more of those four documents?---It is possible, yes.

In answering questions earlier, you gave evidence that the signature looked like yours. Is that right?---Correct.

And you were struggling to find an explanation to why a signature that looked like yours appeared on those documents, is that right?---That's right.

20 Can I suggest to you that one explanation is that another person affixed something like your signature on those documents?---I presume that's what had happened or as I indicated in my written evidence that they were copied and these were in fact photocopies of a signature taken from elsewhere.

And therefore the possibility that you averted to earlier is a possibility that is that some other person affixed your signature to those documents?---As completed I presume that is what has occurred.

Thank you. Nothing further.

30 THE COMMISSIONER: Ms Soars?

MS SOARS: I just don't understand what some other person may have affixed your signature to those documents means.

THE COMMISSIONER: Before you ask. I don't think that you have challenged the evidence that Dr Hugh has given that he's never met the client.

40 MS SOARS: It's been challenged by counsel assisting and I didn't think it was useful to - - -

THE COMMISSIONER: Challenge.

MS SOARS: It's been put to him that this occurred and he said no. If you, I'm happy to go through the transcript again.

THE COMMISSIONER: No, no, no, I understand your position. You just don't think there's any point in it?

MS SOARS: I don't have anything in addition to what's been put.

THE COMMISSIONER: I understand.

MS SOARS: Thank you, Commissioner. Dr Hugh, there may be a number of possibilities in relation to the document in front of you but just to clarify you accept that there is a possibility that that is your signature on Exhibit 10 32A through to 32D?---There is a possibility this is my signature but it was not put on this forms as they are completed.

THE COMMISSIONER: By you?---By me.

And it was not put on the forms in blank by you?---That's correct.

Well, I think the difficulty that counsel has, and I must say it's difficulty that I share is how on earth is there any possibility that it's your signature? 20 ---I cannot explain that, Commissioner, I don't know and that's why in my written evidence I suggested they may have been photocopied from elsewhere. I don't know how else it occurred but I did not complete these forms as they are presented to me here.

MS SOARS: Is there a possibility that you could've just signed them in your signing folder quickly without looking at them?---No. I'm extremely pedantic and those who know me know that I'm pedantic about these issues. Now, I take very seriously my role as Head of the Department of 30 Gastrointestinal Surgery, I'd been there for twelve months only, I take it very seriously and the extent of these requisitions was far and above anything I'd done up until then and I would've taken note of that and I would not have signed these without quickly, without scrutinising them very carefully.

Commissioner, I don't have anything further.

THE COMMISSIONER: Yes, thank you. Mr Alexis?

MR ALEXIS: Thank you, Commissioner. Dr Hugh, there's one issue 40 floating around which I'd seek to try and tie down if I may. You've given some evidence about the extension telephone number that was the subject of some assistance you provided to the Internal Audit staff. Remember that? ---Yes, I do.

Now, if you look at, by way of illustration page 206 of the examination bundle or alternatively one of the forms of non-order voucher that are dated either 31 October, 2008 or 11 November, 2008 you'll see in the bottom

right-hand corner some detail underneath the heading of the column entitled Phone, do you see that?---Yes, I do.

10 And an examination of the relevant vouchers indicate that that's the same telephone extension number referred to on each of them. What should we understand about the assistance you provided and the details on each of the voucher forms concerning that telephone extension number?---It wasn't an extension number in the Department of Gastrointestinal Surgery, I cannot recall the exact extension number that the internal auditor showed me but if it was that then that would be at level 8 but I can't tell you that now, I can't clarify exactly what that number was.

All right. Yes, thank you. Commissioner, I have no further questions for Dr Hugh and I'd ask that he be excused from further attendance.

20 THE COMMISSIONER: Dr Hugh, I've just got another topic that I want to ask you about. Do I understand your evidence to be – please correct me if I'm wrong – that when a non-order voucher is completed in the ordinary course it is then sent to the accounts department for payment?---That's correct.

And that's done by your secretary ordinarily?---Yes, correct.

How does she send it?---She would either send it via internal mail or walk across to the accounts department.

What is internal mail?---It's the mailing system within the hospital which would be picked up by a courier on a daily basis, the internal courier.

30 And would a copy of the non-order voucher ever be sent to the accounts department or would the original be sent?---The original, the protocol as I understand it is that the original should always be sent and should only be acted on.

Do you have any explanation for the fact that these four non-order vouchers were found, originals were found in the possession of Ms Lazarus?---No, I don't.

40 Is that something out of the ordinary?---Well, - - -

(not transcribable) to say that the person for whose benefit the non-order voucher was signed would be in possession of the originals?---It would be very out of the ordinary and it would be something that even the authorising officer would normally not take out of the department let alone the individual requesting.

MR ALEXIS: Commissioner, I hesitate to interrupt but could I just for the sake of absolute clarity just remind the Commission that when one speaks of

the original non-order vouchers which are contained within Exhibits 32A to D inclusive they do not precisely replicate the copies which are at pages 214, 216, 218 and 220 of the examination bundle because the copies contain the date in handwriting adjacent to what purports to be Dr Hugh's signature, the originals do not.

THE COMMISSIONER: Yes, thank you. Do you have any comment to make from the light of that clarification that's been given?---No.

10 Do you want to ask any questions in the light of the question that I've asked, Ms Soars?

MS SOARS: No, thank you, Commissioner.

THE COMMISSIONER: Dr Hugh, thank you for your evidence. You're excused from the summons?---Thank you.

THE WITNESS EXCUSED

[12.27pm]

20

MR ALEXIS: Commissioner, I now seek to call Michelle Lazarus.

THE COMMISSIONER: Mr Hogan, your client?

MR HOGAN: Yes, I make an application under section 38.

THE COMMISSIONER: Where is your client?

30 MR HOGAN: She should be outside. She's been outside for the whole hearing.

THE COMMISSIONER: Is someone calling her?

MR HOGAN: I understand she's indisposed.

40 THE COMMISSIONER: We'll wait. Mr Hogan, there is no, as far as I'm concerned the Commission does not require Ms Michelle Lazarus to be outside and certainly when she's finished her evidence there's no reason for her - - -

MR HOGAN: No, no, it was only for the evidence up until her evidence so there couldn't be any suggestion of contamination but she'll remain after her - - -

THE COMMISSIONER: Yes, thank you. Ms Lazarus, you may be seated.

MS LAZARUS: Thank you.

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

10

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

20

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

MS LAZARUS: Under oath, please.

THE COMMISSIONER: Swear Ms Lazarus in please.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Thank you, Commissioner.

Madam, could you state your full name?---Michelle Lazarus.

10 What's your current address?---It's 101/26 Rider Boulevard, Rhodes.

And do you have a current occupation?---I'm currently a mother.

THE COMMISSIONER: I beg your pardon?---I'm a mother.

MR ALEXIS: And by that should we understand that although no doubt you work very hard you're not currently receiving any paid remuneration?---Yes.

20 Now, in September 2007 should we understand that you made arrangements with you accountant to have a company known as Wish Consulting Pty Limited incorporated?---Yes, that's right.

And is the accountant Stephen Yong?---Yes.

And was he your accountant that provided accounting services to you personally and your company Wish Consulting for the 2007 to 2009 financial years?---Yes.

30 And does he still provide you with accounting advice and services?---Yes.

Now, you're the sole director and sole shareholder of that company?---Yes.

You have always been the sole director and sole shareholder of that company?---Yes.

And may we take it that your sister, I'm sorry, your sister Sandra Lazarus has neither been a director nor a shareholder of that company?---No.

40 Has the company Wish Consulting always conducted a bank account with the St George Bank?---Yes.

And in relation to the subject of employees can we understand whether or not Wish Consulting has ever had any employees in the 2007 or 2008 financial year?---No.

Has it ever had any employees in the 2009 financial year?---No.

Now, can I ask you some questions about the company Medical and Clinical Informatics Consultants Pty Limited, you understand that company to be controlled by your sister Sandra?---Yes.

And in the 2007 and 2008 calendar years - - -?---Ah hmm.

- - - distinguishing between financial years if you follow - - -?---Ah hmm.

10 - - - but in those two calendar years is it the case that you were employed by that company?---I was for a period of two months or thereabouts.

All right. And what two months were they?---I believe that may have been at the start of 2008.

All right. So if we looked at your income tax return for the financial year ending June 2009 - - -?---Ah hmm.

20 - - - we should see some reference to income that was earned from Medical and Clinical Informatics should we?---She actually paid me cash and GST was taken out in accordance by her. I, I asked my accountant about that and he said that I can make a claim later if I haven't claimed something.

All right. Well, can I just understand what you've just said. Is your evidence that Sandra paid you from that company in relation to the period early 2008 as an employee of that company or in some other capacity?---As an employee.

All right. So - - -?---(not transcribable)

30 And is your reference to GST in fact a reference to withholding tax being deducted by your sister in relation to what was paid to you as an employee? ---Yes.

40 You referred, however, to GST, might you be confused about that?---Oh, oh, yes, sorry. I believe that GST was taken out by myself but when I spoke to my accountant he said I haven't taken GST out or paid GST on that amount that was earned to which I asked him whether I could pay that amount at a later stage and he said that yes, I could if I put a claim in to pay that to the ATO.

THE COMMISSIONER: To put a claim in?---Oh, to, sorry, to, to pay that.

MR ALEXIS: So coming back to my question concerning the content of your 2009 income tax return should we find should we a reference to some income that was earned from Medical and Clinical Informatics Consultants during that year of income should we?---I, I don't know. I can't remember whether I, I actually had that in my tax return.

Well - - -?---That's what I asked my accountant about.

Well, if you earned that money during that financial year - - -?---Yes.

- - - then we would expect to see it in your income tax return for that financial year, wouldn't we?---I, I don't know, I can't remember.

10 So what is your best recollection as to whether or not you declared the receipt of that income in your tax return for that year?---I may not have declared it is I guess is what I'm trying to say.

Thank you. Well, why wouldn't you have declared that income in that financial year if you earned it?---I may have been just complacent about, about that I'm sorry.

Complacent about declaring income in a tax return?---Yes.

20 But you know when you sign, you sign a tax return you've got to give a declaration as to the truth and accuracy of the content don't you?---Yes.

And you've signed lots of those declarations over the years haven't you? ---But I'm not, that the first company that I've ever owned and I'm not too, I'm not too sure about the, the workings of a company I guess is what I'm trying to say.

But Ms Lazarus, we're not talking about any company, we're talking about you. You've told the Commissioner that you were an employee - - -?---Yes.

30 - - - of Medical and Clinical Informatics Consultants, haven't you?---Yes.

And you've told the Commissioner that you were paid as an employee from that company or by that company - - -?---Ah hmm.

- - - for a period in early 2008?---Yes.

So my question is why as an employee of that company you wouldn't have declared that income in your tax return?---Sorry, I would have to put that down to complacency.

40 Well, why would you be complacent about declaring income that you received as an employee in your income tax return?---I don't know, I can only put it down to complacency.

Isn't the truth that in fact you were never an employee of your sister's company during the late 2007 early 2008 year?---I was, she did pay me an amount for research that I did for her.

And if we find from your 2009 income tax return that you hadn't declared that income - - -?---Yes.

- - - we should understand that you failed to declare that income in your tax return, not that you didn't work as an employee. Is that the position?---Yes.

10 All right. Now, can I show you please this document and Commissioner, can I provide you with a copy and provide copies to my learned friends. Now, do you see that I've provided you with a document comprising three pages?---Yes.

The first page of which, at least on its face, indicates that you were employed by Medical and Clinical Informatics Consultants in the media department of that company from at least 15 November 2007, do you see that?---Yes.

20 And you'll see if you look at each of the three pages that the document appears on each page to represent about a period of a month. Do you see that?---Yes.

The first from 15 November to 15 December, '07, the second from 15 December, '07 to 15 January, '08 and the third for about a month ending 15 February, 2008. Do you see that?---Yes.

So would you agree that those three pages appear to represent a period of about three months, straddling 2007 and 2008?---Yes.

30 And do you see that the document on its face appears to indicate that you are an employee on an annual salary of \$96,000. Do you see that?---Yes.

You were never employed on an annual salary in the media department of this company for \$96,000 were you?---Sir, I was told by my sister that I would, I would be an employee of her company.

Well, thank you, but could you answer my question. You were never employed as a media, in the media department of this company on an annual salary of \$96,000 were you?---I was told by my sister that I was.

40 Did you ever receive these documents from your sister at any time?---I believe that she did show them to me.

All right. So should we understand then that according to these documents you received a net payment, just looking at the first page of \$4,754 for the month ending 15 December, 2007?---Yes.

And do you see underneath that it says, YTD gross payment? Do you see that?---Yes.

And you understand that to be a year to date gross payment of \$24,000. Do you see that?---Yes. That's not right.

Well why isn't that right?---Because I was not paid that amount.

Well I was just going to come to that. Does the document accurately indicate that prior to the payment of \$4,754 for the period ending 15 December, 2007 - - -?---Yes.

10 - - - had you ever been paid a gross amount of 24,000 or a net amount of 14,000?---No.

So the document does not accurately reflect the payment of salary as an employee up to that point in time?---No.

Is there anything else inaccurate about this document?---Not that I can see, sir.

20 All right. If we look at the next page we see that the YTD gross payment of 32,000 or a net year to date payment of just over \$19,000 appears to have been paid to you. Do you see that?---Yes.

Well, you were never paid anything of that sort by Medical and Clinical Informatics Consultants were you?---No.

Were you paid anything like \$4,754 according to the first page of the document?---Yes.

30 And what, that was the first payment that was made was it?---Yes.

So are you telling the Commissioner that the document is otherwise accurate save for the year to date details that are provided on the first page?---Yes.

And is that the same with the second page?---Yes.

So you received another net payment of \$4,754 did you?---Yes.

40 And just looking at the third of the three pages, for the third month that I've referred to, were you paid a further \$4,754?---No.

So out of the three payments referred to in the three pages of this document, you tell the Commissioner that you received the first two but never received the third?---That's right.

And you never received anything like a year to date payment of \$23,773 for the period ending 15 February, 2008?---No.

So should we understand then that in total about \$10,000 was paid to you as an employee of this company?---Yes.

And as I think we've established, we won't find any reference to that in your income tax return?---No.

And do you accept from me that you failed to declare the receipt of that income in your tax return for the 2009 financial year?---I was complacent about it, sir.

10

Well you might have been, but do you agree with my suggestion that you did not declare the income that you've now told us you received from this company in your tax return for the 2009 financial year?---No.

You're agreeing with me?---Yes.

Isn't it true that in fact you didn't receive any money from this company as an employee or in any other capacity during the period referred to on this document?---Sir, I did.

20

All right.

THE COMMISSIONER: Was that in cash?---Yes.

MR ALEXIS: No, no.

THE COMMISSIONER: Why cash?---I don't know, maybe it's just easier for her.

30 Easier for (not transcribable)

MR ALEXIS: No.

THE COMMISSIONER: - - - to give you \$5,000 in cash?---I don't know, sir, I didn't, I didn't question what she, she'd been doing.

Has she got a cheque book?---Yes, she does.

40 Why didn't she give you a cheque?---I don't know. Maybe she just, I can't answer on her behalf, sir.

What did you do with the money?---I used it to buy things.

MR ALEXIS: Ms Lazarus, you understood didn't you that the cash that you were paid was paid to you in the form of cash so you didn't have to declare it in your tax return. That's right isn't it?---No, sir, that's not correct.

And when I referred earlier to the 2009 income tax return, I meant the 2008 income tax return. Having drawn that to your attention, does that change any of the evidence that you've just given about the disclosure of income?
---Can you repeat that question, please?

Certainly. Apparently in my questions to you about failing to declare income in your tax return I inadvertently referred to the 2009 return, I should have referred to the 2008 return?---8, yes. Yes.

10 Now having drawn that to your attention does that change any of the evidence that you've already given me on that subject?---Well, I guess it would have been the 2008 tax return that I didn't claim that.

The question I'm putting to you is this, that you didn't declare the receipt of any of this income that you've just told us about in your tax return for the year ended 30 June, 2008. Is that right?---Yes.

20 Now in relation to these documents that I've just shown you, do you agree with me that they firstly represent that you had been paid income by this company as an employee to the extent that it does?---No, sir, I was told that I was hired as an employee and that I would be getting paid for my services. That to me is the truth.

Perhaps you didn't understand my question. You've already told me I think that the year to date details on the documents - - -?---Yes.

- - - do not reflect the true position haven't you?---Yes.

30 MR ALEXIS: You've told me that when one looks at the first page of the three documents you had not received a gross payment of 24,000 or a net payment of \$14,264 till 15 November, 2007. You've agreed with me haven't you?---Yes, I have.

And so to that extent the document falsely represents the position doesn't it?---In that area, yes.

And over the page similarly the year to date gross and net payments to you falsely represent the position don't they?---They're incorrect, yes.

40 Thank you. Now, did you see any of the three documents that I've put before you or copies of them during the time that you worked for this company?---I believe I saw copies of these, yes.

I see. And when you saw copies of these documents did you look at them?
---Not, not in detail, sir.

Or did you look at them to see that the year to date gross and net payments that are recorded on them was not representing the true position?---I, I can honestly say I, I didn't look at it in detail.

THE COMMISSIONER: Well, what were you given them for?---Beg your pardon, sir?

What were you given them for?---Just for my own benefit I guess.

10 What did you do with them?---I, I didn't keep them myself, sir, they were with Sandra.

Why were they for your benefit, what benefit did you get out of them?---I didn't get any benefit out of them, sir.

I'm trying to understand why they were shown to you?---She showed me what she was doing I guess.

20 Doing about your salary?---Yes.

What qualification, what was your occupation before you became a mother?---I worked in various areas such as publishing and marketing.

What qualifications do you have?---I have a degree in Professional Communication, a Masters.

Mr Alexis, is this a good (not transcribable)?

30 MR ALEXIS: If it is to you, Commissioner, it is to me.

THE COMMISSIONER: That's a lesson for the junior bar, Mr Alexis. The Commission will now adjourn.

LUNCHEON ADJOURNMENT

[12.50pm]