

CHARITYPUB01302
23/03/2011

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pp 01302 – 01346

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CHARITY

Reference: Operation E10/0035

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 23 MARCH 2011

AT 11.05AM

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THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Thank you, Commissioner. Commissioner, I propose to recall Sandra Lazarus. Before I do can I deal with some short preliminaries. Firstly, could I just check and without meaning any discourtesy, turn my back to you, Commissioner, to see if - - -

THE COMMISSIONER: Certainly.

10 MR ALEXIS: - - - Michelle Lazarus and Jessica Lazarus are in the hearing room? I see they are, thank you. Secondly, we received as I understand late last week three folders entitled “tender bundles”, one each from Sandra Lazarus and each of her two sisters. The bundle that was provided on behalf of Sandra Lazarus contains, the relevance of which is a little difficult to ascertain. At a convenient point, perhaps immediately before Ms Lazarus is recalled, it might assist if Ms Soars indicates the relevance of the material, perhaps not by each page but at least by each tab reference. The folder is divided into five separate parts so it might assist the Commission if we have the benefit of that.

20

In relation to the bundle that was provided on behalf of Michelle Lazarus, can I indicate that my examination of that bundle seems to indicate that it’s a replica of what was already tendered as Exhibit 39. Perhaps Ms Michelle Lazarus might take that on board and indicate why it is that she wants to tender that material again when Mr Hogan who then appeared for her tendered Exhibit 39 and it seems, as I say, to be a replica of that. And finally a further folder on behalf of Jessica Lazarus has been provided. Again, there’s a serious question at least in my mind as to the relevance of the material. There’s certainly nothing in it that indicates or records any

30 conduct of any test on any patient at the Royal Hospital for Women so perhaps at some convenient point Ms Jessica Lazarus could indicate what the point of her documents are as well.

30

THE COMMISSIONER: Well, perhaps Michelle Lazarus and Jessica Lazarus can each explain the relevance of the documents they seek to tender before, when they’re called but before you question them.

MR ALEXIS: Yes, thank you, Commissioner. Well, then, perhaps before I call Ms Sandra Lazarus could I deal with one other preliminary. The

40 Commission received a letter from solicitors acting for Ms Sandra Lazarus concerning two emails that apparently have recently come to light and when I say recently I mean on the last day or so of the last hearing. Two emails which on their face were dispatched by Ms Lazarus to Dr Vaux on 10 June, 2009. The letter which was the subject of scrutiny on the last occasion is a letter dated 12 June and the attachments to those emails seem to bear some resemblance to the material contained in that letter. In that regard a further statement has been obtained from Dr Vaux which acknowledges the receipt of the two emails that I have referred to and to that extent it would seem to

me that the request made by Ms Sandra Lazarus' solicitors has been answered by the provision of this statement. It's a statement that I've only literally just read. It's a statement that's recently been handed to Ms Soars, she'll need to take some instructions. My preliminary position on it is that it's not a matter that requires Dr Vaux to be recalled but perhaps when I tender his further statement, which I'll do at a convenient point after Ms Soars has had a chance to read it, we can debate that issue then.

10 THE COMMISSIONER: Yes, well, that matter will just be, will just stand over to some convenient time when it may be raised again.

MR ALEXIS: Thank you, Commissioner. Well, I then seek to have Ms Sandra Lazarus recalled and perhaps my learned might indicate the relevance of the documents and they can be tendered and then I'll proceed with the further examination.

20 THE COMMISSIONER: Yes. Ms Lazarus, if you take your seat please in the witness box and, Ms Soars, if you could explain the relevance by reference to each tab.

MS SOARS: Commissioner, I will be asking Ms Lazarus some questions about some of the documents in the tender bundle when she gives - - -

THE COMMISSIONER: That's not the point.

MS SOARS: It's just that - - -

THE COMMISSIONER: I asked you to explain the relevance.

30 MS SOARS: Yes, yes, Commissioner, I can do that but I was just going to say that her evidence will then elaborate on the documents and, and, and what the relevance is.

THE COMMISSIONER: Some or all of the documents?

MS SOARS: But I'm happy to deal with it by tab if that is - - -

THE COMMISSIONER: Some or all of the documents?

40 MS SOARS: Some or all but any that she doesn't address specifically I can address at the time as we go through the bundle, I go through the bundle with her. It's just, it's a matter if that's a more convenient way of doing it, Commissioner, or in a general way.

THE COMMISSIONER: Well, you better just tell me what the relevance of the different, the documents in the tabs are without going to each document.

MS SOARS: As you, as you please, Commissioner. In relation to tab 1 there's some correspondence with the Commission and within each of those letters is a reference to some evidentiary material that we suggest the Commission obtain in relation to this hearing.

THE COMMISSIONER: Obtain now?

MS SOARS: Well, as, as, as we've come along and things have come to light.

10

THE COMMISSIONER: We're not going to obtain anything though.

MS SOARS: Well, we have been writing to the Commission from, the letters dated from 10 February which is before the, the hearing commenced through to more recently and they relate to matters, apart from the last letter which I'll deal with separately which is dated 16 March, they relate to inquiries that we have been suggesting that the Commission make and which I will be wishing to make some submissions about.

20 MR ALEXIS: What inquiries were they?

MS SOARS: One inquiry was about, about trying to obtain the laptops, the three and the Medex test units, that's the first letter, that were returned to Mr, Mr Neiron's solicitor.

THE COMMISSIONER: Well, you better, I mean, there was so much opportunity to raise this at the last hearing.

30 MS SOARS: Commissioner, it was raised, it was sitting there as a request in correspondence to which no direct answer had been received.

THE COMMISSIONER: All right. Well, that's what you say the first tab. The second tab?

MS SOARS: The second tab relates to a request for the original ethics application which I understand is here today and so that, that request has been answered.

40 THE COMMISSIONER: The second tab - - -

MS SOARS: I'm sorry, the second letter in the, in the first tab, I apologise, Commissioner. Did you want to deal with them letter by letter or - - -

THE COMMISSIONER: I asked you to tell me what the tabs were.

MS SOARS: As you please, Commissioner. The second tab are documents
- - -

THE COMMISSIONER: The first tab is what?

MS SOARS: Correspondence between my instructing solicitors and the Commission which related to additional matters for evidence that we were asking the Commission to consider either producing, producing in evidence to this Commission.

THE COMMISSIONER: Yes. The second tab?

10 MS SOARS: The second tab are documents that my instructing solicitor received from David Pleiksna and they are relevant in various different means. They confirm that my client prepared and submitted an article to various journals, they confirm that - - -

THE COMMISSIONER: When did these become available?

MS SOARS: My instructing solicitor received them on 11 February. But under an arrangement with my learned friend this material was provided to him I think about Thursday of last week, is that correct?

20

THE COMMISSIONER: Why did it take so long if you got it on 11 February?

MS SOARS: Well, we had to make a decision about what we were proposing to tender, Commissioner, and the arrangement - - -

THE COMMISSIONER: You should've made that decision long ago.

MS SOARS: I don't, it does - - -

30

THE COMMISSIONER: I understand you got it on 11 February and give it to the Commission more than four weeks later.

MS SOARS: Commissioner, I don't understand my learned friend to be saying he can't deal with this material but if that's what he's saying - - -

THE COMMISSIONER: I just don't understand it. Anyway. So this material and now three days before the end of the inquiry the purpose of these three days is for your clients to be questioned by Mr Alexis and yourself. We've been going for a long, long time, I just don't understand why these documents weren't produced long ago.

40

MS SOARS: It's my understanding that I hadn't been asked to put forward any material on behalf of my client.

THE COMMISSIONER: All relevant material had to be produced to the Commissioner as soon as it was received.

MS SOARS: I don't think I understood that to be the direction, it had to be produced to the Commission in time for its authenticity to be checked prior to being relied on.

THE COMMISSIONER: That's nonsense, really it is. This is an investigation, it's not a trial and all relevant documents have got to be put to the Commission at an early stage, I thought I'd made that clear.

10 MS SOARS: You have in the context of cross-examination, Commissioner.

THE COMMISSIONER: Yes.

MS SOARS: And these are documents that are being sought to be tendered for various purposes to confirm my client's evidence - - -

THE COMMISSIONER: All right. Well, you've explained what that is.

MS SOARS: - - - from a different perspective.

20 THE COMMISSIONER: Let's deal with the documents individually.

MS SOARS: Yes, Commissioner. Tab 3 - individually within tab 2?

THE COMMISSIONER: Yes, all of the documents we'll deal with individually, I just want to know what they are.

MS SOARS: Well, the first document is relevant to - - -

30 THE COMMISSIONER: What's in the tab?

MS SOARS: It's tab 2, the first - - -

THE COMMISSIONER: Tell me what tab 2, tab 2 is a lot of documents that you've had for four weeks that you've told us about in the last couple of days.

40 MS SOARS: Thank you, Commissioner. So I'll just deal with each tab generally. Tab 3 is a bundle of documents printed from the email accounts of Sandra Lazarus which again support various aspects of her evidence.

THE COMMISSIONER: And how long have these documents been in the possession of Ms Lazarus?

MS SOARS: Commissioner, they're from her email account so she's always had them.

THE COMMISSIONER: And have they not been given to the Commissioner before?

MS SOARS: I understand that the Commission had access to both email accounts with pass codes so that they had full access to her email accounts.

THE COMMISSIONER: And these documents, what is going to happen with these documents at this inquiry now?

MS SOARS: Well, I propose to tender them and ask my client some questions about them.

10

THE COMMISSIONER: About each one of them?

MS SOARS: Yes.

THE COMMISSIONER: That's intolerable. I mean, we've got three days and the whole point of this was to question her about this. How long is this going to take, add to it?

MS SOARS: I don't expect it to take very long at all, Commissioner.

20

THE COMMISSIONER: But then she's got to be asked about them.

MS SOARS: I don't expect it to take very long at all. Two hours I would've thought will deal with my reply evidence.

THE COMMISSIONER: I just don't understand why it's produced at the last minute.

MS SOARS: Well, I apologise, Commissioner, in the circumstances where there's no practice note making clear exactly what's required I had understood it only in the context of cross-examination and I'd understood my learned friend to indicate a date in advance of this hearing when he wanted my material and we endeavoured to meet that deadline.

30

THE COMMISSIONER: That's in tab 4?

MS SOARS: Tab 4 are copies of documents taken from the documents of my client seized by ICAC so they're all documents within ICAC's possession.

40

THE COMMISSIONER: Tab 5?

MS SOARS: Tab 5 are documents printed from the internet which just contain general information about conventional testing methods for different types of cancer.

THE COMMISSIONER: All right. Well, thank you for explaining that. I'm not going to admit this now and you can put the documents forward when it's appropriate.

MS SOARS: Thank you, Commissioner.

THE COMMISSIONER: And we'll see whether they will be admitted or not.

10 MS SOARS: Could I just mention one housekeeping matter, Commissioner. Since the last occasion my client has had a recurrence of a back injury and what that has meant is that she is in pain if she's required to sit for longer than an hour without moving. I do have a doctor's report, very short, just, just request that she be able to get up and move around every hour for ten minutes. So I will from time to time need to seek an adjournment for her to do that today. I can tender this letter. I've given a copy to my friend.

20 THE COMMISSIONER: Let's see it. Let's see it. It is highly unsatisfactory. There's no explanation for it. Your client has a history of calling for adjournments at critical moments in this condition at prior compulsory examinations and at other times. And if this is intended to lay a foundation for her to get a break every time she's under pressure I'm not impressed.

MS SOARS: It's not - - -

THE COMMISSIONER: There is no, there is no basis here.

30 MS SOARS: It's not - - -

THE COMMISSIONER: There is no medical explanation for this.

MS SOARS: It's not the intention at all. I remember at the beginning of this hearing I did mention that I have some medical reports. But anyway - - -

THE COMMISSIONER: They were very old.

40 MS SOARS: They were old. But I can ask Ms Lazarus some questions about her, her back injury if it assists the Commission.

THE COMMISSIONER: I'm not interested in her evidence, I'm interested in expert evidence. But we will see how it goes.

MS SOARS: Thank you, Commissioner.

THE COMMISSIONER: Can you hand this back, please.

MR ALEXIS: Commissioner, can I indicate my instructions are that the Commission has not had access to Ms Lazarus' email accounts as was put by my learned friend. Apart from noting that I don't wish to say any more about it at this stage. Was it your intention, Commissioner to re-swear Ms Lazarus?

THE COMMISSIONER: Yes. Please swear Ms Lazarus in.

THE COMMISSIONER: Yes. I should say that the section 38 order previously made continues to apply.

SECTION 38 ORDER PREVIOUSLY MADE CONTINUES TO APPLY

10

MR ALEXIS: Thank you, Commissioner. Ms Lazarus, would you agree that in 2008 and 2009 you were highly geared in relation to your real estate investments?---What do you mean highly geared?

20

Do you understand that a highly geared investor would be someone who invests in real estate the costs associated with that real estate acquisition, you exceed the income that property produces so that in respect of each property investment you suffer a loss which can then be claimed as a tax deduction?---Oh, no, that's not true.

What's not true? That you were a highly geared real estate investor in 2008 and 2009. Is that what you're saying?---2006.

I'm sorry?---2006.

30

But you acquired real estate, in fact three properties in 2008 didn't you? ---No. They were settled in 2008, the deposit was placed in 2006 for all three.

All right. I'll come to the detail, but the completion of the contracts which caused you to have significant financial commitments to banks occurred in the 2008 calendar year. Correct?---The loans?

Yeah?---Yes.

40

And as a result of that you became, I would suggest to you a highly geared property investor because the cost related to the holding of the properties far exceeded the rental income that those properties derived?---Sorry, I didn't understand that part. So - - -

The cost of holding the properties far exceeded the rental income that you earned from each of the properties so that in relation to each property you were suffering a loss?---Oh, so you're saying that the rent was less than the loan?

That's what I said?---Oh well, you have to be clear. Yes.

And that loss you claimed as a tax deduction?---What do you mean? Like if I - - -

THE COMMISSIONER: Surely you know what that means?---Well I'm trying to be clear. So if for example, I'm just trying to get it clear before I answer the question. So for example what you're trying to say is that if I am given \$2,000 for rent and the loan is \$2,500, that I have to make up the 500. Yes?

10 MR ALEXIS: Well, you have to service the commitment to the bank somehow?---That's correct, yes.

And that \$500 is the loss on the investment using your example?---Yes, yes.

And the \$500, again using your example, you would claim as a tax deduction?---On the whole thing, yes.

Right. Now, would you agree with the proposition based on the understanding that I think we've achieved, that in the 2008 and 2009
20 calendar years you were a highly geared property investor?---Since 2006, yes.

But it was 2008 that your significant commitments to the bank commenced to operate, correct?---No, because I started in 2006, one was settled - - -

All right?--- - - - in 2006.

Well, let's start in 2006 then. Now in July 2006 you purchased an apartment at 91 Liverpool Street, Sydney with your brother, Ronald, didn't
30 you?---That's correct.

And you acquired it as to 90 per cent, your brother as to 10 per cent, correct?---That's correct.

And you paid \$685,000 for that property?---Yes.

And you borrowed about 90 per cent of that from the Commonwealth Bank of Australia, correct?---That's correct.

40 Now, in relation to that investment property it was rented out after the settlement of the transaction?---That's correct.

It was a unit or an apartment that was purchased from Meriton Apartments? ---That's correct.

And when the commitment to the Commonwealth Bank was brought to account there was a shortfall of about \$1,800 a month in relation to that investment. Do you agree with that?---So the rent was less, yes.

18, about \$1,800 a month?---That's, yes.

Now, in - - -?---Sorry, can I just ask a question?

THE COMMISSIONER: No.

MR ALEXIS: Now in 2006 when you and Ronald exchanged and completed the contract for the apartment at Liverpool Street you also
10 exchanged three other contracts on three other properties, didn't you?
---That's correct.

And they were what we should understand as off the plan purchases?
---That's correct.

The building hadn't been constructed then?---That's correct.

And you knew when you entered into those contracts that after the building was completed and strata plans had been registered and that sort of thing - -
20 -?---Yes.

- - - you'd be called upon to complete those contracts?---Yes, that's correct.

And as things turned out you were called upon to complete those contracts in 2008?---Yes, that's correct.

And you understood, didn't you, that your sister Michelle similarly exchanged a contract off the plan in 2006?---Yes, that's correct.

30 And just so that we can identify these properties, there was a property that you bought yourself at 420 Pitt Street in the city?---Yes, that's correct.

And the contract price for that \$688,000?---Yes, that's correct.

There was also a contract that you and your sister Jessica exchanged in July 2006, an apartment at number 2 Marquet, that's M-A-R-Q-U-E-T Street, Rhodes?---Yes, that's correct.

40 And the contract price for that was \$519,750. Is that so?---Ah hmm, ah
hmm.

And there was also the further apartment that you exchanged the contract on yourself, again at number 2 Market Street, Rhodes?---That's correct.

And the contract price was \$549,450?---That's correct.

And just dealing with Michelle, you understood that she was acquiring an apartment in the development at number 6 Marquet Street, Rhodes for \$554,400?---That's correct.

All right. Now, should the Commissioner understand that by about mid-2006 you had committed to buy two real estate investment properties and a share of a third, that is the one with - - -?---Ah hmm.

- - - your sister Jessica - - -?---Ah hmm.

10

- - - requiring \$1.75 million in about mid-2008?---Yes, that's correct.

Now, in July 2006 did you have anything like \$1.75 million available to you?---I believe you can take out a loan from the property - - -

So when you - - -?--- - - - which is 90 per cent and the ten per cent of the deposits were paid.

20

So the Commissioner should understand that when you went into these off the plan purchases your intention was that when the time came for completion of the contracts you'd go to some banks and you'd borrow up to about 90 per cent of the purchase price - - -?---That's correct.

- - - for the purpose of completing the transactions, is that so?---That's correct.

30

And was your intention also at the time you entered into these various contracts for sale that you'd be able to, in due course, sell the properties, retire the debt to the bank and hopefully make some capital gain out of them?---I believe that's how it works.

Well, that's how you hoped it would work?---Generally, yes, based on other people's evidence, yes.

Now, should the Commissioner also understand that because these were off the plan purchases it wasn't necessary to pay a ten per cent deposit on each contract at the time of exchange?---It was necessary.

40

And what I want to suggest to you is that in relation to the contracts that you entered into yourself for Pitt Street in the city here and Marquet Street there was a five per cent deposit that had to be paid and the remaining five per cent deposit was to be paid on completion of those contracts?---I believe to the best of my recollection, obviously you have better documents, that more than five per cent was paid.

All right. Now, is your understanding that the contract that Michelle entered into was also completed in 2008?---The contract in terms of deposit was in 2006 and I believe a full ten per cent was paid. Again, I'm a little un

clear in terms of the percentage, to the best of my knowledge ten per cent was paid in 2006.

All right. But could you answer my question. In relation to the contract that Michelle entered into in 2006 is it your understanding that that contract was completed by her in April of 2008?---In terms of the bank loan, yes.

10 Now, can I just deal firstly with the property that you purchased jointly with your sister Jessica. Do you agree that that was completed on 29 May, 2008?---May, in terms of the bank loan, yes, but the full ten per cent was paid in 2006 as the deposit.

So, I'm sorry, did you agree that that joint contract was completed at the end of May 2008?---In terms of the bank loan, yes, but the ten per cent was paid in 2006.

20 Now, I'm going to show you a copy of your income tax return for the 2008 year. Got a copy for you, Commissioner. Now, Ms Lazarus, if you could turn to the second last page of the tax return and you should have a relatively short page entitled Tax Agent Certificate, do you see that?---Yes.

And you see that there's a contact name there of Stephen Young?---That's correct.

And in 2008 and 2009 and there may be other years that he's acted as your tax agent but during those years Mr Young acted as your accountant and tax agent?---That's correct, yes.

30 Now, if you look at the second page and, sorry, just take a moment if you would to satisfy yourself that what I've shown you is a copy of your 2008 income tax return. And can I indicate to you, Ms Lazarus, that this was produced to the Commission by your accountant Mr Young?---Yes.

Now just have a look on the second page of the tax return?---Ah hmm.

Should we understand that in that tax return you returned about \$13,168 on income in relation to salary or wages earned as a research worker?---Sorry, where is that written?

40 Well if you look at the second page of your income tax return under the heading Income, you'll see item 1, salary or wages. And if you go to the right hand side - - -?---Oh, yes.

- - - you'll see \$13,168. Do you see that?---Yes, that's correct.

Where was that earned from do you recall?---No.

Who paid you the wages or salaries referred to there?---I cannot recall.

All right.

THE COMMISSIONER: Did you have anybody who could pay you wages?---Yes.

Who?---In 2008 I believe I worked for the hospital.

An employee?---I'm not quite sure.

10

Oh come on Ms Lazarus, surely you know whether you were an employee of the hospital or not?---Well I was a contractor.

Yes, you were a contractor you say, but you weren't an employee or do you say you were an employee?---No, no, no. But that's where the confusion is. I'm a little bit - - -

20

There's no confusion?---Well there is confusion because I can't recall in terms of the employment, where the 13, 000 actually came from. I'm sure they are relating documents.

(not transcribable) confusion. You've written down 13,000. Who employed you in 2008?---Well I can't remember.

It's not long ago?---Well it is fairly long ago. I, do you have supporting documents that I can perhaps look at?

Do you know who employed you in 2008?---I can't recall.

30

And you expect the Commission to believe that?---Yes, that's correct. That's true.

Well who could possibly have employed you?---At that time I was only engaged in some sort of employment in terms of contract or something with the hospital. That's the year of 2008.

But you weren't employed, you were not an employee of the hospital were you?---I'm trying to recall.

40

MR ALEXIS: Ms Lazarus, if you come through and it may assist - - -?---Is there details?

- - - the Commissioner if I deal with this. If you come through to the back of the return and the best way to identify it is perhaps start with that taxation certificate that I took you to earlier at the back. Do you have that?---Yes. Yes.

And if you work two pages further in you'll see something called Partnership and Trust Details. Do you see that? Do you have that?---Yes, that's correct.

All right. Let's just deal with that and then we'll come to attend directly to what the Commissioner asked you. But you see this relates to a distribution of income from the Lazarus Family Trust?---That's correct.

10 And that's the Medical and Clinical Informatics Consultants company that acted as its trustee?---Yes, that's correct.

And we see do we not that that trust made a \$61,344 distribution from that trust to you. Do you see that?---Yes, that's correct.

All right. And then if you come back two further pages, you'll see a page headed Tax Return Worksheets. Do you see that?---Two pages forward or back?

20 If you come back two pages, you'll see a page headed Tax Return Worksheets?---Tax, yes.

And you see about a third of the way down under the heading Income Salary and Wages a reference to St Vincent's Hospital?---Oh, there you go. Yes.

All right. So does that answer the Commissioner's question about - - -?
---Yes.

30 - - - where the \$13,000 was paid to you from?---That's correct.

So the answer to the Commissioner's question is that you were employed by St Vincent's Hospital and for the 2008 tax year you were paid a gross of 13, 168?---That's correct.

All right. Thank you. Now just coming back, if we continue to work backwards you'll see the next page is headed Rental Property Schedule. Do you see that?---Yes, there's two.

40 There is and I'm going to the one in relation to 91 Liverpool Street. Do you see that?---Yes.

And do you see underneath the address there's the date of the, the date the property first earned a rental income and you see the date 2006?---Yes, that's correct.

And if you keep moving to the right hand side on that same line you'll see your share percentage, 90. Do you see that?---Yes, that's correct.

And this is the property that you own with your brother Ronald and hold 90 per cent of?---That's correct.

And in relation to the income from that property and the expenses you'll see that there was a loss in respect of your share, you'll see down the right-hand column, of just over \$30,000, do you see that?---30,232, yes.

10 And if you just go up the page next to letter L you'll see that that's identified as interest on loans and your share was \$48,000, do you see that?
---Yes, that's correct.

Now, if you can come to the next page backwards. That's another property schedule relating to the apartment at Marquet Street, Rhodes, the one you own with your sister Jessica, is that so?---Yes, that's correct.

And again, you'll see that reference to twenty per cent as your share in the right-hand side, right-hand column, do you see that?---Yes, that's correct.

20 And again, because this was acquired shortly before the end of the 2008 financial year you'll see that a loss nonetheless was incurred in relation to that property of \$313 as to your share, do you see that?---Yes.

So if we just come back to understand your income position for the 2008 financial year, and I'm now back to page 2 of your tax return, the one that led to the questions from the Commissioner about your employer, do you have that page?---Yes.

30 And if we work down the page you'll see about halfway down the heading Total Income or Loss \$43,997, do you see that?---Yes.

And if you come over the page, page 3 of the return you'll see that the distribution from the trust is referred to at the bottom of page 3, the 61,344, do you see that?---Yes.

And if you come over the page, page 4 of the return you'll see that the loss in relation to the investment properties is brought to account leading to a net positive income of 30,799, do you see that?---(NO AUDIBLE REPLY)

40 Do you want me to step you through that again?---Yes, please.

Have you got page 4 open in front of you?---Yes.

You'll see in relation to rent you've got the gross rent less the deductions leading to a loss of \$30,545, do you see that?---Yes.

The first column down the right-hand side?---Yes, yes, yes.

And when that's brought to account against the income from the trust that left an income of 30,799, do you see that?---Yes.

So that if we come back to the second page of the return we should understand that your income from salary and wages, income from the trust and the loss from the rental properties together with some other deductions leads to your taxable income of 25,300, do you see that on the bottom of page 2?---Yes.

10 Now - - ?---What, sorry, what page, page 2?

Page 2 of the tax return?---Okay.

You got that?---Yes, taxable income loss.

Now, I want you to think carefully before you answer this question, Ms Lazarus. Is the information as to the sources of income and the amount of income disclosed in this tax return accurate or not?---The best, to the best of my recollection it is as you present it here but I will need supporting
20 documents to be absolutely clear.

THE COMMISSIONER: You signed it?---At that time, yes.

MR ALEXIS: Well, why do you need supporting documents to confirm what I've just put to you as I think a very clear question whether or not the content of the income tax return for the 2008 financial year is accurate?
---Well, like previously I couldn't remember if the 13,000 was from St Vincent which you clarified so yes, that is from the St Vincent Hospital income but in terms of the full amount that the trust earned I wouldn't be
30 able to tell you from which part or where from in terms of that income that's generated by the trust, I will need to look at supporting documents.

You might need to look at the income tax return for the trust?---Yes, that's right.

To see what the net income of the trust was?---That's correct, yes.

To see whether or not, in fact, you were a beneficiary of the trust and whether in fact you received \$61,344 from the trust?---No, no, I was a
40 beneficiary.

Is that what you mean?---No, no, I was a beneficiary but in terms of the total amount where it was derived from I would need supporting documentation.

But you know, don't you Ms Lazarus, that if you put false information in a tax return such that it doesn't accurately declare your income that would mean that you would be submitting a false income tax return to the tax office don't you?---That's not correct. To the best of my knowledge the

information there without supporting documents is correct and was correct at the time that it was presented. Like I said I can't give you the breakdown but the information that is presented there is correct.

So the Commission should understand that your evidence is that the sources of income referred to in this tax return, let's just leave aside for a moment the amounts?---Yes.

10 But the sources of income referred to in this tax return are accurate?---The best, to the best of my knowledge, yes.

So we should understand that you earned money as an employee of St Vincent's Hospital?---That's correct.

And from no other source, from no other employer, is that so?---That's correct to the best of my knowledge.

20 You had money from your trust which is the Lazarus Family Trust that we've already discussed?---That's correct.

And there was income in the form of rent from investment properties which was largely, if not entirely, taken up by the holding costs of those properties?---That's correct.

So would you agree with the proposition that the information contained in this tax return concerning your income is completely accurate?---To the best of my knowledge, yes.

30 All right. Now, before you were, let me withdraw that, I'm sorry. Commissioner, can I tender the tax return before I lose track of it?

THE COMMISSIONER: Yes. Ms Sandra Lazarus' tax return of 30 June, for a period to 30 June 2008 is Exhibit 95.

#EXHIBIT 95 - INCOME TAX STATEMENT OF MS SANDRA LAZARUS

40 MR ALEXIS: And, Commissioner, I'm told that I ought to make an application for the tax file number to be suppressed, publication of the tax file number to be suppressed.

THE COMMISSIONER: The tax file number will be suppressed.

SANDRA LAZARUS' TAX FILE NUMBER WILL BE SUPPRESSED

MR ALEXIS: Now, before completion of the apartment at number 2 Marquet Street, and just so that we're clear this is the property that you acquired with your sister Jessica. You were served with a Notice to Complete weren't you?---To pay the loan and to finalise the, the property, yes.

10 Just so that we're clear the vendor of the development served a Notice to Complete which required you to complete the purchase of the property by a particular time and date?---Yes, that's correct.

And you knew that if you failed to complete the contract by the date and time specified in the notice that you would lose your deposit?---It was outlined by the solicitor at the time, yes, that's correct.

Was that Mr Fung?---Which property is that? The one that, for my sister and I?

20 Mmm?---That wasn't Mr Fung.

All right. We'll come to Mr Fung in a moment. Now, would you agree with the proposition that after having been served with the Notice to Complete you sought to obtain the loan to complete that transaction with some urgency?---No, that wouldn't be right. No, it wasn't with some urgency. They had given us almost two and a half years to finalise things.

30 Would you agree with me that you instructed your solicitor and it was a solicitor JR Lawyers at Parramatta, is that one that - - -?---That's the one, yes.

- - - acted for you in relation to the joint purchase?---Ah hmm.

But you instructed that solicitor to get an extension of the Notice to Complete period?---Yes, that's correct.

40 Could I show you this letter with a copy for you, Commissioner. And you see that this is a letter from your then solicitors to Meriton apartments 21 May, 2008 concerning the purchase of the property that we've just been discussing, do you see that?---Yes, just one second, sorry.

And you see the opening paragraph refers to the Notice to Complete ending on Friday, 23 May?---Yeah, I'm just trying to go through it, sorry.

Do you see the opening paragraph says that?---Well, I'm just trying to go through it.

THE COMMISSIONER: No, no, just read the first paragraph, that's the first question?---Is it the first, the first line, "We refer to?"

MR ALEXIS: It refers to a notice to complete ending on 23 May which is two days after the letter. Do you see that?---Yes, yes.

And you see that the solicitor then says that they've been endeavouring to be ready for settlement for this matter for some time as our client has had difficulties getting an appropriate loan, do you see that?---Well, that's what he's written, yes.

10 Well, does that reflect the true situation in May 2008, that you'd been endeavouring and had some difficulties but endeavouring nonetheless to obtain a loan?---That's not correct. I believe, again I'm a little hazy on the dates, that I was actually overseas.

THE COMMISSIONER: Well, where did your solicitor get this information from?---He would have, I think I was overseas and I rang him, I said, can you please hold off or get an extension because at the time actually I was overseas.

20 So was he lying to the, to the - - -?---I don't think he's lying but I think he's just stated incorrectly, it's not the fact that it was, that I was having difficulty obtaining the home loan, it was rather the timeframe.

MR ALEXIS: Now, when you say you were overseas, was that overseas in Pakistan?---That's correct.

And when do you say you were overseas as you recall?---Yeah, I can't recall, that's what I'm saying, I think it was around that time because I did receive a call from him whilst being in Pakistan.

30 How long you were there for?---About maybe three weeks, two weeks, again you'll have a better idea of that, I haven't had a look at any travelling documentation since - - -

So we should understand that in the first half of 2008 you were in Pakistan for about three, two to three weeks, is that so?---Roughly around that time. Like I said, I cannot recall the exact date or month but I'm just basing my answer on the fact that I did receive a called from him.

40 THE COMMISSIONER: I thought you said that you phoned, that he phoned you in Pakistan - - -?---That's, that what I'm, yes.

- - - at the time of this letter?---That's what I'm basing my answer on, the fact that I received a call from him. Again I - - -

At the time of this letter?---Like I said, it's not an exact date or anything like that, I can't remember.

You say that at about the time of this letter - - -?---Around about the time, yes.

So in around about May 2008 you were in Pakistan?---Yes, that's correct.

MR ALEXIS: Were you there with your mother?---With my mum and maybe another sibling, again, I can't, just can't recall which sibling.

But your mother was there?---Yes.

10

Yeah. And apart from Pakistan did you go anywhere else?---Singapore maybe. There's always a transit, Singapore I think.

All right. But the entire time that you were out of Australia was how long on this trip?---I can't recall, maybe, like I said, maybe two or three weeks.

20

All right. Now, do you see in the next paragraph there's reference to a breakthrough? "As of today there has a breakthrough for our client who has received a formal loan approval from St George Bank" and there's reference to it being, the approval being enclosed. Do you see that?---Yes.

All right. And should the Commission understand that the approval that we see in the form of the letter attached from the Mount Druitt branch of St George was the result of a number of applications that you'd made for a loan which had been rejected?---It wasn't a number of loans that had been rejected. It wasn't based, not the ones that - - -

30

THE COMMISSIONER: A number of applications?---No, that's not correct.

MR ALEXIS: Well, how many applications had you made to borrow the money necessary to complete this purchase with your sister before the loan approval from St George at Mount Druitt was obtained on 21 May, 2008? ---I was always informed it's best to inquire in terms of the interest rates and things like that so inquiries were made, I'm not sure what terms you mean in terms of application rejections but this was the one that we actually went through with.

40

All right. Now, just coming back to the letter from your solicitors, did you understand in late May 2008 that the date for completion had been extended or at least a request made in the letter that led to the date of completion being extent until 29 May?---Yes, that's correct.

All right. I tender the letter, Commissioner.

THE COMMISSIONER: Yes, the letter from JR Lawyers to Meriton Apartments dated 21 May, 2008 with a letter dated 21 May, 2008 from St George Bank to Jessica Lazarus will be Exhibit 96A and B respectively.

MR ALEXIS: Commissioner.

THE COMMISSIONER: Mr Alexis, there seem to be two letters attached.

MR ALEXIS: One is addressed to Jessica which is 96A or what I assume was your reference to - - -

10 THE COMMISSIONER: Well, no, the top letter that I have is the letter from JR Lawyers to Meriton Apartments.

MR ALEXIS: Yes.

THE COMMISSIONER: That's 96A.

#EXHIBIT 96A - LETTER FROM JR LAWYERS TO MERITON APARTMENTS DATED 21 MAY 2008

20

MR ALEXIS: Oh, I'm sorry.

THE COMMISSIONER: And then there is a letter dated 21 May, 2008 from St George Bank to Ms Jessica Lazarus, that should be 96B.

#EXHIBIT 96B - LETTER FROM ST GEORGE TO MISS JESSICA LAZARUS DATED 21 MAY 2008

30

MR ALEXIS: B.

THE COMMISSIONER: And then there is another, is that a different letter or the same?

MR ALEXIS: It's a letter in identical terms but to Ms Sandra Lazarus.

THE COMMISSIONER: Yes, that's 96C.

40

#EXHIBIT 96C - LETTER FROM ST GEORGE TO MISS SANDRA LAZARUS DATED 21 MAY 2008

MR ALEXIS: Thank you, Commissioner.

Now, Ms Lazarus, before the St George branch at Mount Druitt approved the application for the loan, did you go with your sister to the bank in order

to request or make application for that loan?---Make an inquiry as to whether the loan be approved.

Did you make an application for the loan?---For this application, yes, yes, an application was made.

And you went to the branch at Mount Druitt with your sister Jessica?
---That's correct.

10 And you saw a bank officer there?---Yes, that's correct.

And made the application for the loan?---Yes, that's correct.

And did you provide that bank officer with information concerning yourself?---Yes, that's correct.

And did you provide that bank officer with information concerning your employment status?---Yes, that's correct.

20 Did you provide that bank officer with information concerning your financial status?---I believe I provided her with a payslip.

And did you provide that bank officer with information about your financial status, that is, what your assets were and what your liabilities were?
---Roughly to the best of my knowledge I must have if it was required.

And may we take it that when you provided that information to the bank officer you understood that it was information the bank would rely upon to consider your application for the loan?---Well, yes.

30 And therefore may we take it that you understood that it was important to provide that information to the bank officer as accurately as you could?
---Yes.

Because otherwise if you provided false information to the bank the bank would be assessing your application on a false basis, you understood that, didn't you?---Oh, yes.

40 And did you sign the application at the Mount Druitt branch after the interview with the bank officer?---No, it was the next day I think. She had the documents prepared for me, it was a rush thing, just to sign it.

So we should understand that in relation to the information that you provided, that was typed into a computer by the bank officer, the application was then printed out and it was then signed by you either day or the following day?---The following day or so or maybe a few days later. I'm not quite sure on the timeframe but it wasn't on the day.

And when you came to sign the application I gather you understood that it was an application for a loan and it contained the information that you'd provided to the bank officer about your financial position and your, those sorts of things?---Yes, I skimmed through it, yes.

Could the witness be shown, Commissioner, Exhibit 63.

10 And, Ms Lazarus, you'll see on the front page of the document it's headed "St George Finance Application" and you'll see that it has the date printed there, 8 May, 2008. Do you see that?---Yes.

And if you just turn to the very back page and perhaps the best way to deal with this is to look at the numbering in the bottom right-hand corner, you'll see 16 pages and what I'm directing your attention to is page 14 of 16, do you see that, the very last page?---Yes, that's correct.

And you see your signature there adjacent to the date 15 May?---That's correct. Like I said, it was a few days later.

20 Well what you're telling us is that your recollection is consistent with what the document would indicate, namely the application was prepared on a day and you came to sign the application on a subsequent day?---That's correct.

All right. Thank you. And if we then come back to page 13, again we see your signature on that page adjacent to the date 15 May?---Yes, that's correct.

30 Now do you see above your signature in the capital letters it says, "Please take care to ensure all information you give us in the application is correct?"---Yes, that's correct.

And you see the next sentence in capitals, "we rely on the information to decide whether or not to approve your loan?"---Yes. At that time I didn't read it.

Did you read that before you signed the application?---No, I didn't. No.

THE COMMISSIONER: But you knew that anyway.

40 MR ALEXIS: But you knew that?---Yeah, it was outlined by the officer.

THE COMMISSIONER: Well it's common sense isn't it?---Yes, it is.

MR ALEXIS: All right. Now when you came to sign the application I gather you looked through it before you did so?---Yes, roughly skimmed through it.

All right. Now just have a look at the front page if you would, that's page 1 of 16?---Yes.

And you see that applicant number 1 is a reference to you and you'll see there that we have your full name and your address and some telephone number details. Do you see that?---Yes, that's correct.

Your marital status and date of birth. Do you see that?---Yes.

10 And that information was accurate was it in May of 2008?---Yes, that's correct.

Thank you. Just turn to the second page and do you see that there you are described as a full time employee. Do you see that?---Yes, that's correct.

Now was that true on 15 May, 2008 that you were employed as a full time employee?---Full time employee yes, but it must have been with St Vincent's Hospital. The information that I'm looking at that's derived there I don't know how that's derived.

20

Well your occupation is described as doctor. Now was that true in May of 2008?---No, that is not correct.

Well it's not true is it that your occupation of doctor as is recorded there is it?---That's not correct.

Well you keep saying it's not correct but the description of your occupation as a doctor was an entirely false description of your occupation in May of 2008 wasn't it?---It's incorrect 'cause I was a researcher.

30

THE COMMISSIONER: It's entirely false isn't it?---In terms of false - -

Yes, in terms of false?---It is when it's presented here, but not what I had said to her.

Okay. Have you - - ?---As far as I remember.

Have you ever called yourself doctor before?---No.

40 Never?---Never. No, I haven't completed my PhD.

You wouldn't do that?---Why would I when I haven't completed my PhD?

You might want to to lie or misrepresent facts?---Well why would I want to do that?

Well I'm, I'm not - - ?---It doesn't change my situation in any way.

So you've never called yourself doctor?---No, I haven't. And people have actually given evidence of that, like Vern Pleiksna.

No, I'm just asking you whether you have?---Yes.

You say you haven't?---I haven't, no.

Never?---Never. Why would I?

10 MR ALEXIS: So the description of doctor I gather you say to the Commission is not a description of your occupation that you provided the bank officer?---No.

So can you explain how it is that in the application for finance that you signed on 15 May, your occupation is described as doctor if you didn't provide that description to the bank officer?---I think she derived that from the payslips I gave her which was St Vincent's Hospital.

20 So she derived that. Is that what you're saying?---That's what I'm saying, yes, because as far as I remember she was, it was an option, she was trying to select and I'm just going on very vague, just trying to recall as much as I can. I provided her with payslips from St Vincent Hospital, roughly.

THE COMMISSIONER: And she didn't ask you what your occupation was?---I said medical researcher.

Did she ask you what your occupation was?---Yes. Yes, she said, what do you, I said, medical researcher.

30 MR ALEXIS: So what's your explanation as to how it could be in this application that you've signed that your occupation is described as doctor when on any view of the facts in May of 2008 you were not a doctor? ---That's incorrect, that's correct.

Well how does it come about?---Well I'm not sure. You'll have to ask the bank that.

THE COMMISSIONER: But you signed it?---I signed it at that time very roughly.

40 Very roughly, you signed it certifying that what was there was true?---In terms of my signature, my signatures are there, signatures there unlike the doctors, I can't dispute my signature. It's there in front of me and I will not deny my signature.

MR ALEXIS: Now you told the bank officer didn't you that you were a full time employee of St Vincent's Hospital?---I think I was listed as full time employee.

No. Please answer my question. You told the bank officer that you were a full time employee of St Vincent's Hospital didn't you?---As outlined in my payslip, yes.

And that you'd been so employed for five months?---That's correct.

10 And you also told the bank officer that you were a full time employee of the Royal Hospital for Women didn't you?---I think I told her that that's where I'm going next in terms of employment. And if you look at the timeframe and the date it's when my, Royal Women's Hospital employment was being processed.

But Ms Lazarus, it's obviously isn't it when one looks at the application that you told the bank officer that you had been employed by the Royal Women's Hospital as a full time employee for one month. It says so?---I had been at that time, yes.

20 You weren't going anywhere Ms Lazarus, you told the bank officer that as at the time of this application you had been employed at the Royal Women's Hospital for one month?---According to the documentation that's been provided by the Royal Women's Hospital in terms of employment - - -

THE COMMISSIONER: Did you tell, did you tell the bank officer - - -?---I would have, yes.

30 - - - that you were a full time employee of the Royal Women's Hospital and had been for one month?---Yes, according to the, according to the research that I had been doing, I would have been.

Did you tell her?---I would have told her, yes.

MR ALEXIS: And in saying that to the bank officer you provided the letter which Doctor Hacker apparently signed of 17 April, 2008 didn't you? ---That, that's correct. The letter that Neville Hacker did sign.

40 Mmm. But you provided that to the bank in support of this application to prove to the bank officer that in fact you were employed by the hospital didn't you?---That's correct 'cause that's, that's the only letter that I had at that time, the letter that Neville Hacker signed for employment.

So you understood in May of 2008 that it was critical to obtain a loan from St George because otherwise you wouldn't be able to complete the contract. You understood that didn't you?---Well the letter that was provided by - - -

THE COMMISSIONER: Just did you understand that?---No. That's what I'm trying to - - -

Did you understand that?---Well I'm trying to explain the question.

No, I'm not asking you, there's no explanation needed. Either - - -?---Well then the question can't be answered.

It can?---No, it can't.

10 The question can be answered yes or no. Did you understand that or not?
---Well, you'll have to divide that question up, because there is no way that
can be answered yes or no. I'm sorry, but you'll have to divide that
question up.

MR ALEXIS: When you were before the bank officer asking for the loan
you understood that it was critical to obtain the loan in order to complete the
contract - - -?---For the whole - - -

- - - before your sister had entered into didn't you?---That's correct, yes.

20 And you knew that without the loan you wouldn't be able to complete the
contract. Correct?---To complete the purchase of the property, that's
correct. Yes, that is common sense.

And you used, all right, well thank you. But you also knew, as I think
you've already told me that if you didn't complete the contract under the
Notice to Complete, you'd lose your deposit?---I believe that was outlined
by the solicitor, that's right.

30 And you've told me many times that you understood that you paid a 10 per
cent deposit on each of the contracts?---That's correct.

So that's about \$50,000?---That's correct.

So you stood to lose that didn't you?---Yes, I believe that was, that's what
was outlined.

40 And because it was critical to obtain this loan from the bank in order to
complete that contract, you were prepared to tell the bank whatever was
necessary to get the loan across the line. Isn't that so?---No, that's
incorrect.

And what I want to suggest to you is that you falsely represented yourself as
a doctor with two employers. One being St Vincent's, the other being the
Royal Hospital for Women?---Your suggestion is false.

All right. Well let me come to the income details in this form. Do you see
that you have, that it's recorded here that you've got a yearly gross income
of \$94,200?---That's correct. That's derived by the bank, not given by me.

I'm sorry it's derived by the bank?---That's correct. Calculations that she, the loan officer made.

Are you seriously telling the Commissioner that when you were having this discussion with the bank officer you didn't provide the bank officer with details as to your yearly gross income?---No. That's what I was trying to explain if I was allowed to explain. That letter that was signed by Neville Hacker did not suggest I was a doctor in any way whatsoever.

10 THE COMMISSIONER: We're not dealing with doctors.

MR ALEXIS: No, we're dealing with income?---That's what I'm trying to explain to you. The income, there's no number written on the, in the letter. It states what position I'm holding and it's as a principal scientific researcher. I believe the information where she got the figures from was from the internet, from the New South Wales Health Department, which is available to everyone and it outlines how much that - - -

20 THE COMMISSIONER: She didn't ask you to give her the - - -?---No, because I had no payslips at that stage, so how could I give her anything. The only payslip I did have was St Vincent.

MR ALEXIS: Ms Lazarus, you signed this application in May of 2008 and I want to suggest to you that when you did so, you represented to the bank officer that you were earning about \$94,000 a year from your full time employment as set out on page 2 of the application?---That was calculated by the bank officer, not, those numbers weren't ever uttered from my mouth.

30 THE COMMISSIONER: Did she ask you how much you were earning? ---She calculated that.

No, that's - - -?---No, she didn't. Yes, she asked me - - -

40 You went to the bank for a loan and the bank officer didn't ask you how much you were earning?---The point was she asked me how much I was earning, I gave her a document that outlined my employment status and information from the Internet outlining how much I'd be paid and a payslip. The payslip clearly outlined how much I would be earning and when she did the calculation that's what came through.

Just tell me what you gave her, please?---That's what I gave her. Three pieces of paper.

You gave her information from the Internet?---Yes, where to get that information for the amount that's earned because I didn't have a payslip from the Royal Women's Hospital. All I had was the letter and the payslip from St Vincent.

MR ALEXIS: Now in relation to the rental income - - -?---Which if you do the calculation actually probably does add up to that, I'm not quite sure.

Now, did the bank officer also work out the rental income from the Internet as well?---I believe that's not available on the Internet and I actually had to provide a letter.

10 Right. So the rental income of \$54,000 is information you provided the bank officer?---I obtained that information from Meriton. I believe you have a copy of that letter.

But as I think as we've already established you weren't earning any income from the investment properties because they were trading at a serious loss? ---That letter was requested by the bank and it was the only, the only communication I had with the bank and Meriton was to provide that letter and Meriton faxed that letter to St Vincent, not St Vincent, to St George Bank and I believe that's standard protocol for everyone not just this case or anything like that, I believe that's standard procedure and that, that letter 20 actually outlines potential income to be earned. It doesn't say that's the income it's earned as far as I can remember.

I want to suggest to you, madam, that you represented to the bank officer that you were deriving a rental income of \$54,340?---That's incorrect.

Well, how is it that they derived the figure in the form that you came to sign on 15 May?---Based on the letter that was provided by Meriton.

30 I see. And you didn't think to say to the bank that that was a fairly unreliable basis to calculate the rental because of the holding costs that you had to defray from time to time?---No, because their bank would have been very well aware of how much the loan will come out as and how much the rent will be, that's something for the bank to calculate in terms of that, just (not transcribable)

Under the heading "Other" you see that there's \$130,000 worth of income attributed to you, do you see that?---Yes, that's correct.

40 Did you provide that information to the bank?---I'm not quite sure. I must have.

Well, what does that relate to?---Like I said, I can't remember.

THE COMMISSIONER: It's a lot of money?---That it is, yes, it is.

So surely you remember?---Well, I, yes, I'm trying to remember. It might have been in terms of some income my mother might be giving me or something.

MR ALEXIS: Well, when you signed this form you knew, didn't you, that you were presenting yourself as someone that was earning an annual income of about \$280,000 a year?---In terms of yearly gross income that would have been based on the hospitals. In terms of the rental income that's based on the rental letter that Meriton provide. In terms of 132,000 that's something that might have been potentially going into or a contract that I must have had or something that I've been working with my mother on.

10 And you'd agree with me, wouldn't you, that when one goes back to your tax return for the 2008 financial year there's not a word of mention about any income from full-time employment of \$94,000, there's no mention at all of any positive rental income of \$54,000 and certainly no reference to any other income of \$132,000?---Well, in terms of the gross income of \$94,000 I didn't stay at St Vincent long enough. You only get paid about nearly \$94,000 if you, that's yearly income but I wasn't there for the whole year, I wouldn't have been paid that. In terms of the rental she's just going off on what the letter says which was provided directly by Meriton so I can't really answer on behalf of Meriton.

20 Well, you didn't think that it was important to bring to the bank officer's attention that that rental figure there was a complete lie because of the interest and other costs that you were paying in order to earn that rental income which meant that you were suffering a loss?---Well, it's something for her to figure out, isn't it, in terms of interest rates and things like that?

And you don't say that you were desperate for this loan?---I wasn't desperate for this loan.

30 Now, you've told me I think that the letter that Professor Hacker signed of 17 April was provided, can I just go back to that letter please in Exhibit 1, thank you, at page 83 and just so that the transcript is clear, that's the letter that we were referring to a short moment ago when we were referencing the letter that was provided by you to St George Bank in support of this application?---(NO AUDIBLE REPLY)

The letter at page 83, is that the one?---Yes, I'm just having a look.

40 Now, is it based on the information contained in that letter that you tell the Commissioner that the bank officer was able to work out via the Internet was the rate of pay translated to for a principal hospital scientist?---Yes, that's correct.

All right. Now, the original of that letter is Exhibit 8 and that was a letter that was seized from your home during the execution of the search warrant, is that so?---That's correct.

Can I ask why it was that you had the original of that letter at your home when the Commission investigators investigated the search warrant?
---Because there were at times, there were two original copies of certain letters, for example, the reports as well for Royal North Shore Hospital that were signed by Kenneth Vaux and Gil Burton. I had originals of those as well because there were two originals.

I'm not sure that really answers my questions, Ms Lazarus. Why would you have had the original of this letter when according to your evidence
10 Professor Hacker signed this letter and it was provided to Ms Madunic in connection with your "employment" with the Royal Hospital for Women? Why would you retain the original letter is my question?---That's what I'm saying, there were two originals.

And where was the other original?---With Ms Madunic.

I see. And why were they two originals?---There were times that there were two originals.

20 THE COMMISSIONER: Why?---I just thought to have two originals.

And how did you get one?---Because I'm the one that drafted the letter, I kept originals. It's a good thing I did keep originals because apparently originals go missing when investigations are carried out.

That is not true?---That is very true.

MR ALEXIS: Ms Lazarus, the reason why there was a second original is because you wanted to pass that letter off to the bank in support of loan
30 applications that you needed to make to complete these contacts, that's so, isn't it?---That's not correct.

Well, why would you keep the other original if there be a second original, why would you keep the second original at your home?---The same reason I kept the originals for the reports for the trials as well, the same reason there were two originals at times for requisitions so they can be presented today as evidence.

40 THE COMMISSIONER: Now, what made you think you need to present them as evidence?---Well, I'm just being sarcastic.

MR ALEXIS: Well, let's try and keep the sarcasm - - -?---Sorry about that.
- - - out of it if we can?---Sorry. I do apologise.

Now, Ms Lazarus, I'm going to show you a letter together with a copy, with a copy for the Commissioner, so that's the original and copy and that's the copy for the Commissioner?---Thank you.

Now, do you see that this is a letter apparently on the letterhead of the Royal Prince Alfred Hospital apparently under the hand of Associate Professor Mark Adams addressed to the human resource department of that hospital concerning the subject of your employment, do you see that?---Yes, that's correct.

10 And if you just take a moment and look at the letter that I've just handed you and I've handed you the original and a copy and you compare it with the letter at page 83 of Exhibit 1, would you agree with the proposition that they are precisely the same in terms of the content of the letter, the way the letter is addressed, apart of course from address and the person who has apparently signed it?---Like I mentioned earlier, I'm the one that drafted it.

Well, is the observation correct or not, Ms Lazarus?---That is correct because I'm the one that drafted the letters and I've mentioned that earlier.

20 Now, again, when the search warrant was executed at your home the original of this letter was found in your possession, do you accept that?
---That's correct.

And the original of the letter is one of the two that I've just handed to you?
---Yes, that's correct.

30 Can you explain why the letter apparently under the hand of Professor Adams to the Human Resource department of RPA was in your possession when the search warrant was executed?---For the same reason they Royal Hospital for Women's was. But this was never actioned because Johel had asked me to start a clinical trial at RPA in Cardiology, 'cause Cardiology is apparently very important area for Medex, to which point I declined and this was never actioned, no employment was gone through, no trials were carried because there's no way, I just turned around and said I can't split myself in three.

So do you accept the proposition that you prepared the letter which is apparently signed by Professor Adams?---At no point have I denied the preparation of these letters.

40 And you used this letter didn't you in support of another bank application?
---Not to my recollection, no.

You sure about that?---Hundred per cent I cannot recall.

So what I want to suggest to you - - -

THE COMMISSIONER: 100 per cent you cannot recall, which of the two is it?---I can't recall. That's what I'm saying I'm 100 per cent that I cannot recall whether I handed this to obtain a loan or not.

Is it possible that you did?---It is possible, yes, at that time.

Even though you were never employed?---Because our employment was being actioned but like I said - - -

10 But you were never employed?---I was never employed in terms of, I was never put on a payroll, that's what I mean in terms of employment. But all measures had been taken by the Human Resource department to put me on as an employee to which point I turned around and said, No, I can't do this. So it was declined by me not by the hospital.

MR ALEXIS: And at what point in relation to the letter of 2 June, 2008 to RPA did that occur?---It would've been later in 2008.

Later when?---I can't recall the exact month, I wouldn't be able to - - -

20 The fact of the matter is you were never employed by RPA in any capacity were you?---If you have a look at the records from RPA my employment had been actioned. I wasn't physically paid, I was given an employee number to the best of my recollection, you can perhaps go check, I'm sure you already have, but I wasn't given physical payment because I politely turned around and said, No, thank you, I can't do this.

All right. And what I want to suggest to you is that you prepared this letter, you forged Professor Mark Adams' signature on it and you used it in support of an application for a loan to Westpac in August of 2008?---Well, I'd like to suggest to you that's false.

30 All right. And I want to suggest also, just going back to the letter at page 83, that you prepared that letter, you forged Professor Hacker's signature on it and you prepared the letter for the purpose or at least a purpose of supporting your application for the loan to St George in May of 2008? ---Well, I'd like to suggest to you that's false as well.

I tender the letter, perhaps the original of the letter that I've just asked Ms Lazarus about, Commissioner, to RPA dated 2 June, 2008?

40 THE COMMISSIONER: Yes. The letter purportedly signed by Associate Professor Mark Adams to the Human Resource Department at Royal Prince Alfred Hospital dated 7 June, 2008 is Exhibit 97.

**#EXHIBIT 97 - LETTER PURPORTED TO BE SIGNED BY
ASSOCIATE PROFESSOR MARK ADAMS DATED 2 JUNE 2008**

MR ALEXIS: Now, Ms Lazarus, have you still got the loan application before you, Exhibit 63?---The St George, yes.

Yes?---Yes.

Now, if you turn to the third page of that application do you see there's some details concerning your sister Jessica described as applicant number 2?---That's correct.

10 And if you look at page 4 do you see that the application there refers to her as a fulltime employee in a professional occupation with Wish Consulting, do you see that?---That's correct.

And do you see that the application at least indicates that she had been employed in that position for a month?---Yes, that's correct.

And your sister Jessica conveyed that information to the bank officer when you and she were there making the application, is that so?---Yes.

20 And in support of that the contract at page 84 of Exhibit 1 commencing with the letter of 17 April, 2008 apparently signed by a Linda Gomez and the letter of appointment that follows through to page, I'll withdraw that I'm sorry, page 91 was provided to the St George Bank in support of that application?---Yes, that's correct.

And at the time that letter of appointment was provided to the bank you knew that it was false to represent your sister Jessica as a fulltime employee of Wish Consulting?---No, that's incorrect.

30 And it was false to represent to the bank that she was earning a rental income of \$13,780?---That's incorrect. I believe that's the percentage of whatever the letter would've outlined.

So again, it's plain isn't it that what was represented as the rental income took no account of the holding costs of the property?---By the bank.

40 All right. Now, remember last time you were giving evidence before the Commission I asked you some questions about the document at page 84 and you told me that the contract between Jessica and Wish Consulting was never actioned and never went anywhere?---That's correct and that's in relation to a particular task that she was completing. She had been working with Wish Consulting since 2007 on a fulltime or a part-time basis, not quite sure in terms of, I'm just going on what I can remember. So she had been working with Wish Consulting for quite a long period of time but again, at times part-time or fulltime depending on her availability. But this outline, may outline a different project or it may outline, it may have been outlining of a different capacity that, or a different job change in terms of Wish Consulting.

Ms Lazarus, when you told me on the last occasion at page 49 of the transcript, we'll go to it if we need to?---Yes.

10 But the contract at page 84 and following was never actioned. You were making plain to the Commissioner that the contract was one that was never implemented, it never actually reflected an employment relationship?---In terms of this project, a project that she was working on. I thought you were referring to work she had done in terms of hospital work. That's the, that's the issue.

But, Ms Lazarus - - -?---You weren't very clear as to which - - -

I thought I was. Ms Lazarus, the letter at page 84 is dated 17 April, 2008, do you see that?---Yes.

20 Should we understand that at the end of April 2008 there was no employment relationship between your sister Jessica and Wish Consulting as you understood it?---There was an employment relationship and various documents and payslips to reflect that.

Was it an employment relationship reflected in this agreement including remuneration of \$87,000 per annum, page 84, paragraph 4?---I should refer to it. Page?

Page 85, paragraph 4?---In terms of the amount that's correct.

30 What's correct? There was an employment relationship as at the end of April 2008?---That's correct.

And Jessica was being paid \$87,000 per annum in accordance with that arrangement?---Yes, but she didn't work the full year so again, it would reflect a percentage of what she worked.

40 THE COMMISSIONER: So was this letter of appointment actioned to use your phrase?---Actioned but in terms of her responsibilities had changed so that's what I mean in terms of being actioned. There are parts that were actioned but her responsibilities or she, this wasn't pay that she got paid for the work for the hospital or anything like that. This was a private project that Wish Consulting was engaged in.

What project was that?---We were doing some cosmetic things and, like development and research in that.

So you say that she was employed by Wish Consulting for a long period before 17 April, 2008?---Yes, but this was in respect to another - - -

So she was part of the Wish Consulting team?---She was in other aspects but her duties had changed because of her personal decision she was making.

But she had been long a part of the Wish Consulting team by 17 April, 2008 as I understand it?---I think on a part time basis or full, then I can't be exactly correct.

10 Whether it's part time or full time - - -?---Since 2007. ((not transcribable))

Thank you. So is there any explanation (not transcribable) the letter at page 84 says, I take on behalf of Wish Consulting, I take great pleasure in welcoming you to join our team?---I think it's just a standard that everyone just writes. It's just standard.

A standard letter everyone just writes?---Well it's - - -

20 Everyone who? Everyone in Wish Consulting?---I believe everyone in any aspects of employment, it's just, it's just a welcoming, just a warm thing.

MR ALEXIS: But there was no need - - -?---It's just a general standard - - -
- - - to (not transcribable)?---Well it was just, just a general standard - - -

Ms Lazarus, please listen to the question. There was no need to welcome her because on your evidence she was already working for Wish Consulting?---It's just - - -

30 THE COMMISSIONER: She'd been there for a year?---Well, it's just a standard, I believe no changes were made, that's about it. The person who drafted this letter, I think you might have to speak to her about it. But in terms of, it's just a standard letter. No one's made any changes to it. And it's welcoming her on board. And she had been there for a while.

She's been welcomed on board a ship she's been sailing in for a year?---It's good to be welcomed and appreciated every time I think.

40 MR ALEXIS: Well, well Ms Lazarus, please attend to the ridiculous proposition that's been put to you. It is a ridiculous proposition isn't it to welcome an employee that's been employed, as you would have it, for at least a year?---Yeah. There's people that - - -

Do you agree with that or don't you?---No, I don't agree with that.

All right. Now I want to show you some evidence that you gave the Commission at page 49 of the transcript, the very first day of this inquiry. And at page 49 you'll see at about line 18 or so, I asked you some questions about the author of the letter. Do you see that?---Yes.

And then if you come down to about line 38, just above 40?---Yep.

You'll see that you told the Commissioner this, "This was never actioned. This contract was never actioned because Jessica, she came back and told us that there's no, she doesn't want to be, she cannot do this full time because she wants to continue, take on another subject at the university, so this was just void." Do you see that?---Yes, that's correct. In terms of hospital work.

10

What you were, what you were intending to convey to the Commission and I would suggest to you in very clear terms, that the contract that we see at page 84 and following was never put into effect?---It was put into effect.

THE COMMISSIONER: It was void, you said it was void?---It was void in terms of the hospital. I thought you were referring it to the hospital. At no point did Wish Consulting pay Jessica for hospital work. See that's what, that's what I was referring to.

20

MR ALEXIS: The contract on page 84, as you told us on the last occasion was never put into effect, was never actioned and as you've described it, was void. That's so isn't it?---Like I said that's in terms of in a hospital work. In a private work that we were doing in terms of what she was getting paid and there is documentation in terms of payslips and things like that, would reflect that she was paid according to that amount of \$87,000 for work that was unrelated to any hospital work. This research that she is doing is based on, see I was under the impression you were only talking about hospital stuff. I was never under the impression that you were talking about unrelated things.

30

THE COMMISSIONER: You said, you said that your sister told you that she'd found something permanent in Wollongong and her partner had moved away?---Wollongong?

Yes?---My sister?

Yes?---Okay. That's incorrect. (not transcribable)

MR ALEXIS: No, that's (not transcribable)

40

THE COMMISSIONER: I'm sorry, you found something, I beg your pardon, you'd found something permanent in Wollongong?---No, that is not in reference to me. I do apologise, I don't know what the transcript did there. At no point - - -

MR ALEXIS: I think that's (not transcribable)?---That's not that.

THE COMMISSIONER: Oh, I see, that's Ms Gomez is it?

MR ALEXIS: Yes.

THE COMMISSIONER: I see, yes.

MR ALEXIS: Ms Lazarus, when you were sitting in front of the bank officer in May of 2008 you never said to the bank officer that the contract from page 84, and that's a reference to the document?---Ah hmm.

10 Obviously you didn't refer to page 84 in your discussion?---Yes. Yes.

But you never said to the bank officer that the contract was never actioned or that it was just void did you?---Jessica wouldn't, just, if that's the case with this she wouldn't have come back to us then. It was quite late when she did come back in terms of hospital and other work.

Can you answer my question?---No, your statement is false.

20 Well let me put it again because I don't think you're attending to it. You never said to the bank officer that the contract, a copy of which is from page 84 of Exhibit 1 was never actioned or was void did you?---Why would there be a need for me to say that to her when she was getting paid that amount?

So the answer to my question is no you didn't say that to the bank officer?
---There was no need for me to, she was paid.

30 And Jessica never said, as far as you could hear that the contract from page 84 was never actioned or void did she?---She didn't make up her mind by then, so there would be no need for her to say that and payslips do reflect that.

And it was important as you then understood it to get this loan application across the line, which is why the contract from page 84 was prepared and why it was provided to the bank, to support Jessica's application for the loan wasn't it?---That's false again on your part.

40 Now when the contract was completed with the benefit of the money from St George, do you agree that, pardon me, after the rental income and the expenses principally interest to St George was taken into account, the shortfall was about fifteen or sixteen hundred dollars a month?---I will have to go on your word with that.

All right. So we should understand that with the property that you'd bought with Ronald and now with the property that you'd completed the purchase of with Jessica, you had a monthly commitment to the bank of about three and a half thousand dollars a month?---That's correct, according to what your calculations are.

Now in late June, 2008 you purchased a new BMW X5 motor car didn't you?---On lease, yes.

And is the point you're seeking to make about it being purchased on lease that you had a monthly commitment in relation to the cost of that, you didn't have to find the purchase price?---It was on loan, yes.

All right. The purchase price of the car was \$110,000 or thereabouts wasn't it?---Yes.

10

And you organised for a prestige purchase agreement in relation to that motor vehicle which created the monthly obligation. Is that so?---Yes, that's correct.

Can I show you this document? With a copy for you, Commissioner. And should we understand Ms Lazarus, that the document that I'm showing you reflects - - -?---Sir, I haven't had a chance to look at the document.

20

Well, have a look at it. You'll see that it's addressed to - - -?---I haven't had at it yet.

- - - Medical and Clinical Informatics Consultants. Do you see that?---Well I'm still looking at it, sorry.

Do you see the letter is addressed to your company, Medical and Clinical Informatics?---Yes.

And do you see that it's dated 27 June?---Yes.

30

And do you see that it relates to the BMW X5 motor vehicle that I've just been referring to?---Yes, that's correct. Yes.

And just turn over the page you'll see that we've copied and attached to the letter the form of contract that you entered into on behalf of the trustee of the Lazarus Family Trust. Do you see that?---(NO AUDIBLE REPLY)

Do you see the name of the company as Hirer?---(not transcribable)

40

And you signed on behalf of the hirer of the car. Do you see that?---(NO AUDIBLE REPLY).

Sorry, are you having trouble identifying the features of the document I've just identified?---Yes. I am dyslexic so it takes me a little time to actually get the numbers in the right order.

All right. Well - - -?---So you just have to be a little bit patient, sorry.

All right. Look, the proposition I'm putting to you is that this document accurately indicates that from, as the letter indicates, from 26 June, 2008 there was a monthly commitment to BMW Finance of just over \$2,000 a month?---Yes, that's correct.

All right. Thank you. And I tender the document, Commissioner.

10 THE COMMISSIONER: This might be an error but there is a transfer attached to this document that's been given to me. That's not intended, I take it? A transfer to Meriton.

MR ALEXIS: I'll take that up with my secretary, Commissioner, no, that shouldn't be there.

THE COMMISSIONER: Well, the letter - - -

20 MR ALEXIS: It should be a three-page document, the second of which is the form of purchase agreement, the second page is the execution page including execution by the guarantor.

THE COMMISSIONER: Yes. Can you please show me where on the document there's a reference to the trust?

MR ALEXIS: To the?

THE COMMISSIONER: Trust.

MR ALEXIS: Oh, there's no express reference to it.

30 THE COMMISSIONER: Oh, I see.

MR ALEXIS: The hirer is the trustee.

THE COMMISSIONER: Where does it say that?

MR ALEXIS: At the top of the document about point 2 on the page, hirer.

THE COMMISSIONER: Page, page 1, sorry page?

40 MR ALEXIS: Page 2, the hirer is Medical and Clinical Informatics - - -

THE COMMISSIONER: Yes.

MR ALEXIS: - - - Consultants.

THE COMMISSIONER: Yes. So where's the trust?

MR ALEXIS: Oh, there's no reference to the trust on the document.

THE COMMISSIONER: Oh, I see. Yes, the letter from BMW Financial Services to the Director of Medical and Clinical Informatics Consultants Pty Limited with the prestige purchase agreement attached is Exhibit 98.

10 **#EXHIBIT 98 - LETTER FROM BMW FINANCIAL SERVICES TO
THE DIRECTOR OF MEDICAL & CLINICAL INFORMATICS
CONSULTANTS PTY LIMITED AND PRESTIGE PURCHASE
AGREEMENT DATED 27 JUNE 2008**

MR ALEXIS: Thank you, Commissioner. Now - - -

MS SOARS: Excuse me, Commissioner, could I ask for a break for Ms Lazarus, please?---If it's not a critical point or anything?

20 THE COMMISSIONER: I beg your pardon?---It'd be appreciated if it's not a critical point of any questioning or anything like that.

MR ALEXIS: Well, could I just round up on this topic?

THE COMMISSIONER: Well, we've got five minutes left. You can have, we'll stop in five minutes and then you can, we'll take the lunch adjournment?---Okay, thank you.

MS SOARS: As you please, Commissioner.

30 MR ALEXIS: Now, Ms Lazarus when the commitment to BMW Finance of \$2,071 per month is brought to account and can I just put to one side that that was a primary commitment that fell on the company?---Oh, yes.

But you understand that you were the guarantee of that, the guarantor of that arrangement so ultimately it was your responsibility to fund that commitment, do you follow?---Yes.

Do you accept that?---Yes.

40 So when we bring the commitment for the BMW to account together with the commitments to both the CBA and the St George Bank in relation to the two properties that we've discussed, do you agree that there was a monthly commitment of about five and a half thousand dollars a month?---Based on your calculations, I guess so, yes.

Well, don't accept my word for it, Ms Lazarus?---I don't have the numbers in front of me.

But you surely should know that from the time that you took the lease over the BMW you had significant obligations that you had to meet each month, one was to the Commonwealth Bank, one was to the St George Bank and you were acquiring further commitment - - -?---The commitments.

- - - to BMW Finance, you must have had some idea about what the monthly commitment in respect of that was?---In roughly around that. Again, I can't be accurate to the cent of a dollar.

10 THE COMMISSIONER: Roughly around \$5,000 a month?---That's correct.

MR ALEXIS: And, Ms Lazarus, in order to fund those commitments you needed to have invoices that you had generated on behalf of Medical Clinical Informatics and Wish Consulting paid, didn't you?---Sorry?

In order to fund those commitments you needed to have the invoices that had been generated on behalf of your company and Wish Consulting paid, didn't you?---What do you mean in terms of invoices, who am I invoicing to?
20

The invoices that you rendered to the Royal Hospital for Women in relation to the clinical trials that you allege to the Commission you conducted, you needed to have them paid in order to meet those commitments, didn't you? ---Sir, what you're suggesting is that, I'm sorry, you'll have to break that question up. Are you saying that, is it invoices to pay Jessica or - - -

Ms Lazarus, it is obvious isn't it at least from your 2008 income tax return that your sole source of income in order to meet these commitments was the money that was being received by your company and Wish Consulting for the clinical trials?---That was my employment basis in 2008, yes.
30

THE COMMISSIONER: It was your sole source of income?---In 2008 at that time, yes, fulltime.

MR ALEXIS: And as you've told us - - -

THE COMMISSIONER: No, entirely?---Entirely for, yes, that was the only job I had.
40

MR ALEXIS: So going forward from the first day of the 2009 financial year the only source of money that you had in order to fund those commitments on the real estate purchases and the BMW car was payment of the invoices that you were about to submit to the Royal Hospital for Women for payment in July of 2009, correct? 2008, I'm sorry, correct?---Well, that's work and don't you get paid and that's your sole income to pay your home loans and car like - - -

THE COMMISSIONER: Just answer yes or no?--- - - - that's what I'm trying to explain.

MR ALEXIS: But you weren't getting money from any other source, that was how you were going to fund these commitments?---That was my job.

10 And from early 2009 those commitments, and I'll come to the other properties that have been acquired, but those commitments were also being funded by payment of the invoices to the company Complete Health and Medicine weren't they?---In terms of payment as to my job, yes, that was because that was the job I had at that time.

Because by early 2009 the only other source of money for you was the funds received by that company?---That was my job at that time. Your job is the only, your job is the only place where you do get income from or funds from.

I'm asking you to direct yourself to the source of income?---Yes.

20 And the only money that you were receiving - - - ?---My job which is at the hospital.

Can I finish my question please?---Sorry.

The only - - -?---See, you're placing your question very, it's making no sense to me at times.

30 I'm sorry I'm not making sense?---Because you said invoices generated and I didn't understand what you meant by invoices generated.

Your sole source of money to meet your monthly commitments, Ms Lazarus, was coming from the invoices that had been generated by you on behalf of the three companies to each of the two hospitals in 2008 and 2009, correct?---Yes, as contracted with the hospital for the job we were completing, yes.

Now, can I ask you to look please at your 2009 - - -?---Five minutes.

40 THE COMMISSIONER: Yes. Will you be long, Mr - - -

MR ALEXIS: Well, that's a convenient point to stop I suppose.

LUNCHEON ADJOURNMENT

[12.47pm]