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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CHARITY

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 23 MARCH 2011

AT 2.02PM

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

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

MR ALEXIS: Commissioner, when we started this morning I referred to a further statement from Dr Vaux, could I tender that statement now having had the opportunity to read it? And perhaps, Commissioner, what I should do is ask you to look at the two annexures, they're very short emails, the first annexure identified with the capital A in the right-hand corner at the top of the page is an email from Ms Lazarus to Dr Vaux of 10 June and in the second line of that email - - -

10 THE COMMISSIONER: I'm sorry, Mr Alexis. Is that on page 6 of 10 from, this is from Ms Lazarus to Dr Vaux?

MR ALEXIS: Yes, that's the email with - - -

THE COMMISSIONER: 10 June, 2009?

20 MR ALEXIS: Correct. And if I could just identify for you the reference in the second line of that email to an attached prostate cancer report "And if possible can I please arrange for another meeting." And then over the page, page 7 of 10 and 8 of 10, I think that's the facsimile of the document that was printed off from Dr Vaux to Ms Furness' instructing solicitor, I think that's right, that's the document attached to the email so it's the one page. And then Annexure B is a further email of 12 June to someone called Wendy who Dr Vaux in the statement refers to as a secretary who worked at his Mona Vale practice and you'll see, Commissioner, the email says that it attaches a letter that needs to be printed, "I hope to speak to you soon", that's Ms Lazarus to Wendy and then the document attached is the two page letter, the signed version of which is in Exhibit 1 at page 288.

30 THE COMMISSIONER: Yes.

MR ALEXIS: And the object of the statement is to explain firstly, what Dr Vaux was doing at or around the time of receipt of the emails and secondly, what occurred in relation to them.

THE COMMISSIONER: Yes.

MR ALEXIS: "Your short position is nothing."

40 THE COMMISSIONER: Yes. So the statement of Dr Vaux of 22 March, 2011 will be Exhibit 98.

MR ALEXIS: Thank you, Commissioner. And can I indicate having had the benefit of reading the statement that I don't propose to have Dr Vaux recalled and if any other counsel wishes him to be recalled then they'll need to make an application.

THE COMMISSIONER: Yes.

MS JAMES:: 98 or 99?

THE COMMISSIONER: Sorry, I'm told that it should be 99. Yes, thank you. So Exhibit 98 is the BMW letter.

#EXHIBIT 99 - STATEMENT OF DR VAUX DATED 22 MARCH 2011

10

THE COMMISSIONER: Yes, thank you.

MR ALEXIS: Now, Ms Lazarus, can I show you please, with a copy for you, Commissioner, a copy of your 2009 income tax return. And again, should we understand that this was an income tax return prepared by your accountant and tax agent Mr Young?---Yes, that's correct.

10 And prepared on the basis of information that you provided to him about your income and deductible expenditure for that year?---Yes.

Now, if we look at the second page of the return do you see that you returned salary or wage income as a medical researcher of eleven hundred and thirty five dollars?---Yes, that's correct.

20 And for who were you working as a medical researcher to receive that eleven hundred and thirty five dollars?---Well my position is the same as in 2008. I can't recall, I'll have to go through the remainder of the document to actually pinpoint who I'm outlining there or who is being outlined.

Well if you look at the third, fourth last page, I'm sorry, fifth last page, let me withdraw that. I'm sorry. The fourth last page of the return, again the page headed Tax Return Worksheet. Do you see there the reference to - - - ?---I haven't gotten there yet, sorry.

Do you have the page headed Tax Return Worksheets?---Yes, that's correct.

30 And the source of the eleven hundred and thirty five dollars is said to be St Vincent's Hospital. Is that so?---Then that would be correct, yes.

All right. Now just coming back to page 2 of the return. Do you see the reference - - -?---What page again, sorry?

Page 2 of the income tax return?---Yes. Ah hmm.

You'll see that in relation to other income, you have returned a loss of \$86,464. Do you see that? It's half way down on page 2?---Yes, that's correct.

40 So that when the income from St Vincent's is brought to account there is a net loss of 85,296. Do you see that?---Yes, I can see that. Yes.

Now to understand the loss that is there referred to, if you come over the page, to page 3 of the return, you'll see that there is trust income disclosed there of \$37,493. Do you see that?---Yes, I can see that.

And if you come to the very last page of the document that I have provided to you you'll see that Lazarus Family Trust made a distribution to you that year of that figure, \$37,493?---That's correct. Yes.

And then if you come back to page 3 of the return, you'll see in relation to rental income that you've there declared a loss of \$123,957. Do you see that? That's the entry in the rent section next to number 21. Do you see that?---Isn't it 64,129?

10 THE COMMISSIONER: No. It's net rent on the right of the - - -?---Okay. Yep. Okay.

MR ALEXIS: Now just to understand what that means, if you come back to the, perhaps it's easier if we go forward, Ms Lazarus. So if you just pass over page 4 of the return?---Yes.

And then page with the tax payers declaration and we start with the page entitled Rental Property Schedule. Do you see that?---Yes.

20 And we see that the property at 2 Marquet Street, Rhodes of which you have the 20 per cent share with your sister, Jessica, returned a loss for the 2009 year of \$8,247. Do you see that? That's the share that was attributed to you?---Yes, that's correct. Yeah, I can see that.

And then on the next page we have the investment property with your brother, Ronald where the loss attributable to you was \$33,556. Do you see that?---Yes, I can see that.

30 And then on the next page we have one of the two properties that we haven't dealt with yet, that was completed in the 2009 financial year that is the one at number 4 Marquet Street, Rhodes of which you owned completely returning a loss of \$51,019. Do you see that?---Yes.

And then finally the other property, again we haven't come to the detail yet, but at 420 Pitt Street here in the city another property that you owned completely, that returned a loss that year of \$31,1356?---Yes.

40 So we should understand that when you take the loss of each of the losses from each of the investment properties you set that off against the distribution from the trust (not transcribable) account the gross salary from St Vincent's we derive a taxable loss for that year of \$93,669, you'll see that at the foot of page 2 of the return. Is that so?---Taxable income and/or loss, yes, I can see that.

Now, the Commissioner should understand that in order to fund that loss for that income tax year you were completely reliant upon the income that was generated by your two companies and that of Wish Consulting?---I was

reliant on the income from my job which was at the hospitals and the income generated from there.

Yeah?---That was my job.

And just so that we're clear with one another, in terms of the sources of income your 2009 income tax return accurately sets out those sources, does it not?---In terms of - - -

10 In terms of gross salary, in terms of distribution from the trust and in terms of rental properties?---That's correct, yeah.

There were no other sources of income, were there?---No, no, just my job and rentals.

Now, Commissioner, can I tender the 2009 return?

THE COMMISSIONER: Yes. Ms Sandra Lazarus' 2009 tax return is Exhibit 100.

20

#EXHIBIT 100 - COPY OF MS SANDRA LAZARUS' 2009 INCOME TAX STATEMENT

MR ALEXIS: Yes. And the same order should be made with respect to the tax file number, Commissioner.

THE COMMISSIONER: Yes. The tax file is suppressed.

30

SUPPRESSION ORDER IN RELATION TO S LAZARUS' TAX FILE NUMBER

MR ALEXIS: Now, Ms Lazarus, can I show you please the memorandum of transfer in relation to the apartment that you purchased at 420 Pitt Street in the city with a copy for your, Commissioner. And does that correctly tell us that the purchase of that property was completed for \$688,000 on 24 July, 2008?---If it's written on the document that would be the date. I cannot recall the date.

40

All right. Well, that's why I'm showing you the document?---Yes, thank you.

You accept that's an accurate record - - -?---Yes, that would be.

- - - of the date of completion of that transaction. And do you see in the top right-hand corner there's a stamp indicating that stamp duty was paid, do you see that?---Yes, that's correct.

And would you agree that the stamp duty on the contract was paid on 24 or 20 July, 2008?---Again, I cannot recall the date but the stamp would be accurate, I guess, yes.

10 Now, before, can I tender the transfer, Commissioner, just to keep it up to date with the documents.

THE COMMISSIONER: The transfer for, the transfer dated 24 July, 2008 relating to, it doesn't show, to which property does this relate?

MR ALEXIS: It's the, it's the apartment at 420 Pitt Street, Haymarket.

THE COMMISSIONER: 420 Pitt Street is Exhibit 101.

20 **#EXHIBIT 101 - TRANSFER DATED 24 JULY 2008 RELATING TO APARTMENT AT 420 PITT ST, HAYMARKET**

MR ALEXIS: Now, Ms Lazarus, can I show you please, with a copy for you, Commissioner, a letter or a series of letters relating to that transaction. Now, should we understand that in June 2008 a solicitor from Derek Fung Company acted as your solicitor on the purchase of this property?
---Yes, that's correct.

30 And was it Mr Fung?---(NO AUDIBLE REPLY)

Was it Mr Fung, the solicitor?---Yes, yes.

It was, thank you. Now, if you could just look at the letter of 3 June, do you see that Mr Fung is writing to Ms McGovern at Meriton Apartments?---Yes, that's correct.

40 Meriton Apartments was the developer from whom you were buying this apartment? Is that right?---That's correct.

And do you see in the opening paragraph that Mr Fung is referring to a Notice to Complete dated 20 May, 2008. Do you see that?---Yes, that's correct.

And should we understand that in June, 2008 you knew that a Notice to Complete had been issued calling for completion of this particular contract?---Yes, that would be correct.

And you understood that if the Notice to Complete wasn't complied with either on the date appointed or on a date that was extended by the consent of the vendor that the contract could be terminated, you could lose your deposit?---Based on previous experience, yes that would be correct.

And you well understood no doubt that the loss of deposit would be a loss of about \$68,000 because of the 10 per cent you told me about earlier that had been paid on exchange back in 2006?---That's correct.

10 So you understood I gather it was important for you to do what you can or could then to complete the contract?---Well not in those terms, no sorry, that would be an incorrect suggestion.

Well you were - - -?---It would just be in terms of going through the similar process of obtaining a home loan that everyone else does.

All right. Now you instructed Mr Fung to get an extension for time for completion?---That's correct, yes.

20 And we see in the opening paragraph that an extension of the completion date was from 6 June until 27 June. That was the extension that he was seeking?---Yes, I guess so. Yes, as illustrated in the letter.

And in the next paragraph do you see that there's reference to you receiving a loan approval from St George yesterday afternoon?---That would be correct, yes, as illustrated in the letter.

30 Thank you. And is it also correct to understand that you were getting some funds ready so that you could have those funds available on settlement, apart from the funds provided by St George Bank. Do you see that?---I see that, but I'm not quite sure what funds these are.

Well the point being made is that in order to settle this transaction you were borrowing money from the bank and you were making up the shortfall that the bank was not lending yourself?---I think the bank did lend me 90 per cent. I'm not quite sure. You'll have to show me documentation. I'm sorry I just can't recall.

40 All right.

THE COMMISSIONER: Well the letter says that?---The letter says that but it doesn't say in relation to what funds.

MR ALEXIS: But no doubt Ms Lazarus, if your solicitor was writing to the vendor seeking an extension of time for the Notice to Complete and was telling the vendor that you'd procured a loan from St George and you were organising your funds to meet the completion time - - -?---Yes.

- - - that he'd be doing so accurately on your instructions?---No, he is, I'm not denying that this letter is not accurate. I'm just wondering what funds he could be speaking about because I cannot recall. I'm sorry.

Well we'll come to that. We'll come to that. If you look at the second page of the document I've provided to you. And I'm just dealing with this as a particular topic if I can?---Okay.

10 Do you see that the St George Bank at the Penrith Plaza branch gave you an approval for a loan on 3 June, 2008 of \$619,000?---Penrith. I thought it was the same branch as the other branch. I don't recall going to Penrith. Sorry.

Well look at the name of the lending manager, Carol Kenny at Penrith Plaza. Do you not recall dealing with her?---No. I only dealt with the one that was at the Mount Druitt branch. Sorry, I don't know - - -

THE COMMISSIONER: This is from the St George Bank - - -?---That's correct.

20 - - - on Penrith Plaza letterhead?---Yes.

That is their letterhead?---Well, I don't know who this Carol Kenny person is. I've only dealt with the one broker.

MR ALEXIS: In any event Ms Lazarus, having shown you the transfer a moment ago, Exhibit 101, having drawn attention to the - - -?---I don't have - - -

30 - - - sale price of \$688,000, it's obvious that there was a shortfall that you had to make up between what the bank was prepared to advance, namely \$620,000 in approximate terms and \$688,000 that you had to complete with. Do you follow?

THE COMMISSIONER: There's a missing \$68,000 approximately?---Well wasn't that the 10 per cent deposit, so - - -

MR ALEXIS: Well, that's - - -?---That's what I'm asking you. I don't have a calculator, I'm sorry.

40 All right. Well is that, is that what you're saying that the difference is explained by the deposit?---Like I said, I don't have the documents in front of me, but I did pay 10 per cent. But if there is a difference then that's the difference he's talking about, I genuinely cannot recall.

Well, just look at the next document in the series please and you'll see that Meriton Apartments is responding to Mr Fung on 5 June agreeing to the extension of the Notice to Complete issued 20 May, 2008, do you see that? ---Yes.

On the following terms the first of which was that the balance of the deposit payable 23,050 is to be paid no later than 19 June, do you see that?---Yes, that's correct.

Now, does that remind you that on this particular contract you actually paid a five per cent deposit?---It would, yes.

10 And so what the vendor was saying was that if want an extension of time you're going to have to pay the balance of the deposit and then we'll give you that extension, do you see that?---Yes, that's correct, as outlined in the -
- -

And is that what happened?---I cannot recall. If that's how it's illustrated by this document then that's would've happened but I genuinely cannot recall.

20 Well, have a look at the last page of the series of letters I just provided to you. Do you see that Mr Fung wrote to Meriton on 18 June enclosing a bank cheque for that sum?---Yes.

Being the balance of the ten per cent deposit?---Yes, that's correct.

Now, which of your companies in June of 2008 had a bank account with St George?---Medical and Clinical.

You sure about that? Or was it Wish Consulting?---Wish Consulting is not my company.

30 All right. Well, that's the correct answer to my question then. Did Wish Consulting have a bank account with St George in June of 2008?---You'd have to ask the person that runs Wish Consulting about that.

Well, thank you, Ms Lazarus?---I can't answer on someone else's behalf.

40 All right. Now, can I ask where the \$23,000 came from to pay the deposit in the terms that we see in this letter on 18 June, 2008?---Like I said I can't remember making, drawing this cheque but I can only go on assumptions and what I can vaguely recall would be that some of it would've come from income earned by me or, or a family member, perhaps my mother, I'm not quite sure. Like I said I cannot recall. You've presented this and that's, I'm trying to jog my memory as quickly as I can.

Can I suggest to you that the bank cheque was purchased from funds that were in the bank account of Wish Consulting on or about 18 June, 2008, that was the source of the funds?---Do you have documentation to support that suggestion?

Can you please attend to my question. Do you accept that suggestion or not?---No, I don't accept that suggestion, sorry.

Thank you. I tender the series of letters commencing with the letter from Mr Fung to Meriton Apartments dated 3 June, 2008.

THE COMMISSIONER: Yes. A bundle of letters commencing with the letter from Mr Fung to Ms McGovern at Meriton Apartments of 3 June, 2008 is Exhibit 102.

10

#EXHIBIT 102 - BUNDLE OF DOCUMENTS COMMENCING WITH LETTER FROM ERIC FUNG & CO TO MERITON APARTMENTS DATED 3 JUNE 2008

MR ALEXIS: Now, the loan application which is referred to in the letter from St George Penrith Plaza branch within Exhibit 102 was an application that you made in early June 2008, do you agree with that?---If that was illustrated in the document then yes. I cannot recall the month, sorry.

20

All right. Well, just have a look at this application. A copy for you, Commissioner. And do you see the date that I just referred to as printed underneath the words "Finance Application" on the first page?---Yes.

And if I could ask you to go through, again, we have the page numbering in the bottom right-hand corner, the document at page 14, the very last page? ---Yes.

30 And do you see that you've signed on 3 June?---Yes.

And if you come back to page 11 you see that you've also signed that page on that day as well?---Yes.

And perhaps we don't need to go through it again but, and again you may not have read the words in capital letters at the top of that page but should the Commissioner understand that when you went to the bank and applied for the loan on 2 June and came to sign this document on 3 June you understood that the information that you gave needed to be accurate?---Yes, I would be in the same position as the previous application.

40

And you understood that whatever information you provided to the bank would be relied upon by the bank in making a decision about whether it should lend you the money or not?---Like I said, I'm under the same, in the same position as the previous application.

All right. Well, look at the second page, please?---Yes.

And do you agree with me that when one looks at the material contained at the top of the second page you are there represented as a full-time employee in the occupation of doctor at St Vincent's Hospital, at the Royal Women's Hospital?---I believe it gets populated automatically, so whatever information the hospital has retained previous, not hospital, bank has retained previously gets populated on that.

10 THE COMMISSIONER: And they don't expect that you might change your job?---It's the exactly the same, even though the timeframe changed it's still - - -

And do you know this for sure or are you just guessing?---I don't know, I'm just making a guessing assumption because - - -

You're guessing?--- - - - it's exactly the same, the amount hasn't even changed.

20 MR ALEXIS: So what you're telling us, Ms Lazarus, is that when you saw the bank officer and provided information in support of this separate finance application on 2 June you informed the bank officer that you'd made a previous application with your sister and the information concerning your employment status, your occupation and your employers was the same? ---No, that would be incorrect because I only had that one broker and whatever information she retained from a previous application she populated with this. I don't who that Kelly, Kenny or Kelly, Karla person is. I've only had that one broker so I doubt she ever questioned - - -

30 But you mentioned earlier in your answer, Ms Lazarus, that this information was populated from the earlier loan application. How would the bank officer know to do that unless you told her that the information was the same?---No, she was, like I said, she's the same broker, she never questioned, this was never questioned. As far as I know it is exactly the same, things carried through exactly the same way. Like you said, in 2009 at that stage St Vincent wouldn't even be on there. The hospital that correctly should be on there would be Royal North Shore and Royal Hospital for Women so St Vincent's should be taken out completely.

40 But you were never employed by Royal North Shore Hospital were you, in the 2009 financial year?---2009, Royal North Shore. As a vendor, yes.

Could you answer my question. You were never employed by the Royal North Shore Hospital in June 2009 or at any time during the 2009 financial year, were you?---From 2008 to 2009, July?

Yes?---That would be correct. Sorry, can you explain that question. Do you mean was I allocated an employee number by these hospitals or was I allocated a vendor number by these hospitals?

Ms Lazarus, my proposition to you is that you were never employed by the Royal North Shore Hospital in the sense that anyone would understand the relationship of employer and employee?---That would be incorrect.

All right. Now, do you see the income details referred to on this finance application on page 2?---Yes, that's correct.

And they're different to the income details on the earlier application, Exhibit 63, aren't they?---Yes, that's correct.

10

And the gross income has increased according to this application from 94,000 to 104,000?---Yes, that, yes, I can see that.

And the rental income has gone up from 54,000 in Exhibit 3 to 84,000 in this document?---That's correct, I can see that, yes.

And do you see also that the other income seems to have gone down from 132,000 in Exhibit 63 to 111,000 in this document?---That's correct.

20

So that in the result your disclosed annual income to the St George Bank on 2 June, 2008 was \$280,540, I withdraw that I'm sorry. Your disclosed annual income in this document is about \$20,000 more than the total annual income disclosed in the earlier finance application?---The earlier application was in, sorry, can I get that earlier application?

You signed the earlier application on 15 May - - -?---Can I get a copy, yes.

- - - 2008, you signed this application - - -?---Okay.

30

- - - on 3 June, 2008?---I think the difference probably would be some of it will be from the rental income, the rental income is a little bit higher there. I'm must making an assumption, I'm guessing off what's written there and probably was supported by again a letter by Meriton which should be attached to this application, I don't know why you haven't shown me that.

40

What I want to suggest to you is that you represented to the bank when you made this second application that your annual income had increased by about \$20,000?---That would be in suggestion to the rental income. If you have a look, again I don't have the application for the previous home loan in front of me, but like you suggested the rental income was fifty-something and now it's eighty-something so you can, again I don't have a calculator, my math's not that good.

Well, can you tell me please upon what basis you informed the St George Bank on 2 June that your yearly gross income had increased from 94,200 in Exhibit 63 to 104,655?---Oh, gross income, sorry, I was looking at the rental. I do apologise. So you're talking about the yearly gross income. I do apologise about that, I was looking at the rental. That would be based on

like documentation to support that. I don't have the documentation in front of me but if I did I would be able to accurately point it out where - - -

You see, Ms Lazarus, what happened between 15 May - - -?---Yes.

- - - and 3 June, the date of signature of each of the applications is about 19 days. What happened in 19 days to cause you to tell the bank that your yearly gross income had increased from \$94,000 to \$104,000?---A payment perhaps - - -

10

A payment of what?--- - - - or a change of contract.

You see, what I want to suggest to you, Ms Lazarus, is that you were prepared to say whatever it was necessary to the bank in order to procure the loan, whether it was true or false?---That suggestion's incorrect.

Well, can you tell me please upon what possible basis you could represent to the bank that your income had increased by \$10,000 over 19 days?

20

---Well, like I said, if you had supporting documentation that actually goes with this application I would be able to pinpoint it accurately what had changed. I cannot recall, I do apologise about that. Again, this application probably has a lot more documentation which goes with it. I'd be happy to pinpoint it - - -

THE COMMISSIONER: Take the rental, the rental's increased by \$30,000?---That's based on a letter that's provided by Meriton.

I want to know how could it have increased by \$30,000 over 19 days?
---Well, it's a different property.

30

You had a tenant?---Yes, there's a, on this particular property there's actually a rental guarantee.

MR ALEXIS: Ms Lazarus, you hadn't purchased another property by the time you made this application?---What do you mean?

You hadn't acquired the next property until after this loan had been approved and you had the funds to do so?---So you are suggesting - - -

40

So how could you represent the rental to have increased from 54,000 to 84,000?---That suggestion is made by Meriton, not by me.

Well, how is it that Meriton makes that suggestion when you're dealing with the bank and you're providing information to the bank and the bank's relying upon the information from you? What has Meriton got to do with that?---Well, Meriton's the one that provided the letter that goes with this outlining that exact figure.

THE COMMISSIONER: But you knew that you hadn't got the income and you weren't entitled to it because you didn't have the property?---That's on the standard letter that the bank asks for and Meriton sends it to them directly. This, this has nothing to do with me.

10 I'm asking you on what basis could you truthfully tell the bank that your rental had increased by \$30,000 on the basis of a property which you had not yet bought?---This field is populated, which the bank would be able to tell you and support you if you have a look at the protocol. I was simply following bank protocol. She asked me to get a rental letter, I contacted Meriton and Meriton wrote the potential rental income, the letter you would have which you are not producing or you don't have and it should be part of this.

The bank wasn't asking you for potential income?---They were asking for potential income.

20 This document that you signed as being true sets out your actual income? ---You have to realise also and you probably know more about it than I will but when this field gets populated it's populated on the basis of them providing a letter, whether what she says that it's possible to put this in there or not that's their decision completely. Nothing to do with me. I do apologise.

But the fact that you do sign it is simply an accident?---No, the fact that I signed - - -

30 That you signed and certified that it's true is something for which you bear no responsibility?---The fact that I've signed it is knowing that the information that I've provided to the bank and been populated correctly by the bank. And she has got the correct, I'm not saying that she hasn't done that correctly.

Ms Lazarus, I really do think you understand what this is about?---And I think - - -

Just a minute, please. You first tell the bank that the rental income is fifty odd thousand dollars?---That's for a separate property.

40 Just a, yes. This has got nothing to do for what property. This has to do with your income at the time you signed the form. You tell the bank when you first sign the form that your income is \$50,000, 19 days later you tell the bank that your income is \$30,000 odd more. In that 19 days you do not have a property for which you say produces the extra income. You have no right to it?---Ah hmm.

So you are making a statement as to your income as at that date and on that date you have no right, as I have explained to you and as I'm sure you

understand, you had no right to any income from the property that you have not yet bought. So again, I don't, what explanation do you have for signing the document, certifying in effect that your income on that date was \$30,000 more than the \$54,000 that you had certified 19 days before?---If you have a look at the 84 and the 54, plus other rental properties, the rental income will exceed 84. In fact I've actually withheld, if you're looking at it from that point of view, can I just say something, if you total all the rental income it will exceed the amount of \$84,000. This income is only true to this property. It doesn't add anything else on the previous as well. All she told
10 me was that she needed a rental letter, I provided that, Meriton provided that letter and that's how this field was populated. So in actual fact it is incorrect that it shows a lesser amount.

Even though in fact if you take into account your expenses, you have no rental income whatever?---That was never accounted and she never asked, she said bottom price of the, what rental income do you generate, that house, that property generates weekly. That's what was provided. And I'm not a bank expert, but it can be seen. That's what the question they asked.

20 THE COMMISSIONER: Ms Soars, you have something to say?

MS SOARS: Commissioner, could I call for the Meriton letters to be produced if they're in possession. They may indicate whether it's prospective rental income or not.

THE COMMISSIONER: You can do that when the time comes - - -

MS SOARS: As you please, Commissioner.

30 THE COMMISSIONER: - - - for you to question the witness. The, and a search will no doubt be made in the meantime, but perhaps you could let Mr Alexis proceed with his questions.

MS SOARS: Yes.

MR ALEXIS: Thank you. Can I tender the further finance application to St George Bank dated 2 June, 2008.

40 THE COMMISSIONER: The finance application to St George Bank dated 3 June, 2008. That's the correct date is it Mr Alexis?

MR ALEXIS: You get that from the front page, 2 June, 2008.

THE COMMISSIONER: Yes, thank you. 2 June, 2008. That is Exhibit 103.

**#EXHIBIT 103 - ST GEORGE BANK FINANCE APPLICATION
DATED 2 JUNE 2008**

MR ALEXIS: Thank you, Commissioner. Now Ms Lazarus in June of 2008 when Mr Fung was acting for you on the completion of this transaction, I'm sorry, did you have something in your bag?---No, I'm fine, I'm fine now.

10 Sorry, what did you look at in your bag?---I just reached out to get something from my bag.

What did you get?---A piece of gum.

I see. Now Ms Lazarus, in June of 2008 when Mr Fung was acting for you on the completion of this transaction, did you have any reason to lie to him in relation to your financial position or your physical whereabouts?---Why would I have reason? Sorry, I don't - - -

20 Well that's what I'm asking you. Should we understand that when Mr Fung asked you questions about where you were and what your position was generally in relation to the completion of the contract, what you told him would have been the truth?---Of course, yeah.

Now can I show you another series of letters involving Mr Fung. And do you see that on 24 June, he's writing again to Meriton Apartments on your behalf and if you see in the first three or four lines he is seeking a further extension of the Notice to Complete. Do you see that?---(NO AUDIBLE REPLY)

30 Do you see he says her funds would not be available until that time, that is 27 June, 2008? Do you see that?---Yes.

And he also says, apart from the loan to finance the above purchase our client is also obtaining funds from overseas to pay the balance of the settlement monies. Do you see that?---Yes.

40 Now was it true on 24 June, 2008 that you were obtaining funds from overseas to pay the balance of the settlement monies?---I could have, yes.

Now if you look over the next page, you'll see that the response to Mr Fung's letter was to grant the extension to 4 July, with time of the essence. Do you see that?---Yes.

And did you understand then that when there is reference to time being of the essence, it meant that 4 July was an absolute deadline date?---Oh, yes.

So that if you didn't complete the contract by then you would have been subjected potentially to the vendor terminating and you losing your deposit?---It would be exactly the same position as the previous.

And as we've already established I think by this stage you'd paid the balance of the 10 per cent deposit, so there was \$68,000 on the line wasn't there?---Yes.

10 And you see in the last paragraph of that letter, should settlement not take place, the contract will be terminated, and you well understood that then didn't you?---Yes.

Sorry? Your answer - - -?---Yes. That would be the - - -

- - - is yes. Thank you?--- - - - exact same position as the others.

20 And then do you see the last of the three letters. There's a further letter from Mr Fung to Meriton Apartments of 2 July, which refers to the letter of 26 June and he says, we're instructed by our client to seek your consent to granting her an extension of the expiry of the Notice to Complete to 18 July. Do you see that?---Yes, I do. Yes.

And so what was sought was an extension from 4 July to 18 July, that is another two weeks?---Yes, that's correct. Yes.

30 Just excuse me, Ms Lazarus. Now, you see that the letter then goes on to say that the loan approval from St George had been obtained and then in the next paragraph there's reference to our client, that is you obtaining funds from her account in Pakistan. Do you see that?---Yes, that's correct. But I didn't have an account in Pakistan, sir, that's incorrect. It's not my account.

All right. So what does that tell us, that either Mr Fung thought of that himself or misunderstood what he was told by way of instructions?---I think he would have misunderstood.

All right. But you see in the next sentence it says, due to security restrictions, the Pakistani government only allows a certain limit to be remitted for overseas transfers?---I have not a clue about that.

40 Don't you? But this is Mr Fung writing on your behalf trying to get a further two week extension isn't he?---The extension is under my instructions, what the transfer of funds are from overseas I have no clue, sorry.

THE COMMISSIONER: So you have no idea where Mr Fung got this from?---No.

He couldn't possibly have got it from you?---No, he wouldn't have because I wouldn't know what the transfer of funds are, what the limitations are from Pakistan, I have - - -

So you didn't tell him that you were getting funds from Pakistan?---I, yes, I told him my mother would be getting funds from Pakistan, not me. I have no account from there. I have no account, sorry, there.

10 MR ALEXIS: Well, just have a look at the next paragraph, madam?---Ah
hmm.

You'll see there we're instructed that our client, that's you and her mother -
- -?---Yes.

- - - are now in Pakistan to obtain the funds and that such funds will be available for settlement on 18 July. Do you see that?---Yes. Was I in Pakistan then?

20 Well, what I want to suggest to you is that Mr Fung is writing on your instructions and I would suggest to you quite accurately that as at 2 July, 2008 you and your mother were in Pakistan procuring money so that the transaction could be completed on 18 July?---No, that would be incorrect.

30 Sorry, what would be incorrect?---First of all, I don't know, like I said to you previously I'm not quite sure when I was overseas. I was overseas with my mother, I have no account in Pakistan and I don't know what the restrictions or limitations are in terms of funds that are transferred from overseas or not. Like I said, because I cannot remember when I was overseas, I might have been overseas at that time.

Well, you said to me earlier that you thought you were overseas - - - ?
---That's right.

- - - when I asked you this in about April or May?---Yeah, like I said I can't recall.

40 And you said to me that you were overseas for about two weeks or three weeks and you said apart from Pakistan you went through Singapore?
---Yes. Like I said I can't remember. I know I went in 2008 overseas but I just can't remember because (not transcribable).

Well, may I suggest to you, Madam, this letter under Mr Fung's hand which is said to be on your instructions makes it perfectly clear that as at 2 July, 2008 you were overseas and you were overseas with your mother in Pakistan?---Only because it's illustrated in that letter but not that I can recall any of these dates and - - -

Well, you've told me that when you instructed Mr Fung you had no reason to lie to him?---I had no reason to lie to him in terms of funds that were being provided and where they were being provided from. In terms of what the restrictions are I have no idea, I possibly could have been in Pakistan in 2008 at that time.

10 Well, there are two possibilities aren't there, Ms Lazarus, one is that you told a fib to Mr Fung so that he'd have a good reason to write to Meriton and ask for a two week extension, that is, you were overseas getting the money or it's true, namely, you were overseas with your mother getting the money. Which is it?---Well, the first statement would be false on your part. Secondly, I can't remember the date - - -

So the letter's true then is it that you were overseas on 2 July with your mother in Pakistan obtaining the money?---I can't recall the time I was in Pakistan so you'll have to show me some documentation, I do apologise about that.

20 THE COMMISSIONER: This is the documentation?---No, it's not.

This is the documentation that your lawyer writes on your instructions. Are you suggesting, well, I actually don't understand what you're suggesting? ---Well, I'm suggesting that I could have been in Pakistan, I probably was in Pakistan but I cannot be sure because I can't recall the date. And if there was some, I'm sorry, I don't have my passport or anything but I wish I did, I'd be able to exactly pinpoint to you where I was at that time. If I'm telling him I'm in Pakistan I probably was in Pakistan but in terms of funds restriction I have no idea where he got that from.

30 MR ALEXIS: Well, did you in fact go to Pakistan for the purpose of obtaining funds so that you could complete this transaction?---Not for the sole purpose, no.

Did you go there for a purpose that included obtaining funds to complete this transaction?---I went there for another purpose and the funds being obtained was just another reason but not for the main reason or the sole purpose of that trip.

40 I'm not suggesting it was the main reason but you accept from me do you that one of your purposes in going to Pakistan with your mother and being there on 2 July it was to obtain the money to complete the transaction?---It might've helped the transaction, that's about it but not the sole purpose, I do apologise.

THE COMMISSIONER: It might've helped?---Well, if I'm there, my mum could've gone and done this herself if she was doing that. I just went along because I wanted to go with her and see other people but like I said - - -

One of the purposes for going there was to get money to pay for this property wasn't it?---Not by me.

MR ALEXIS: Ms Lazarus, the reason why Mr Fung was asking for a two week extension to 18 July was because you weren't going to be back with the funds until then, correct?---Sorry, can you submit that statement again? Sorry, ask that question again?

10 The reason Mr Fung was writing seeking an extension for two weeks to 18 July was because you weren't going to be back from Pakistan with the money until then?---If I was in Pakistan that would be correct.

Thank you. Now, of course if you were in Pakistan and if you were obtaining the money to complete this transaction and if you weren't back with the money until, before 18 July it would've been a little difficult for you to prevail upon Professor Hacker to sign vendor maintenance forms and requisitions on 11 and 14 July, 2008 wouldn't it?---Sorry, when?

20 11 and 14 July, 2008?---I must've been back by then.

I thought you'd say that. What I want to suggest to you - - -?---Have you done a handwriting analysis to suggest that because anyone can write a squiggle and say that's not my signature. The investigation really isn't complete and I would like to make a suggestion that first of all you do get a handwriting analysis done because this is a waste of taxpayer's money.

THE COMMISSIONER: Ms Lazarus, this doesn't help. Your job is to sit there and answer the questions and not make statements?---Okay.

30 MR ALEXIS: Ms Lazarus, we'll get to the subject of tax in a moment? ---Okay.

But I just want to put to you and put to you very - - -?---Do you have documentation to support my travelling as well? If you're making a suggestion that I fraudulently obtained funds from the hospital or forged a signature I suggest you have proof of my travelling accounts.

MR ALEXIS: Ms Lazarus - - -?---In this letter I have not seen prior to that.

40 THE COMMISSIONER: Listen to what I've said, Ms Lazarus?---You haven't listened to a word I've said either, Commissioner, I do apologise for that comment.

I think we will adjourn for five minutes and you'd better explain to Ms Lazarus, Ms Soars, the rules of contempt.

MS SOARS: Yes, Commissioner.

By whom?---By a family member.

Who?---A relative.

Who?---Family member. It's just a - - -

I require you to answer that question. Failure to do so will be regarded as contempt?---Okay. Well, I spoke to my sisters in terms of my travelling.

10

And who did you speak to?---To both of them collectively.

And what did they tell you?---I said, Can you remember any date or any time that you can recall that I could've gone to Pakistan and come back? And they said, and I remembered I spent my birthday in Pakistan which was the 6th. Based on that it was suggested it would've been the 9th that I would've returned because of another friend's birthday which I did attend which was on the 10th of July. Based on those nothing else was discussed but just simply based on that but again a passport and travel details will correctly outline - - -

20

You'll be able to bring that in tomorrow?---I will be able to definitely, without fail.

MR ALEXIS: Now, was your trip to Pakistan successful in terms of you being able to obtain funds that would be available at the settlement on 18 July?---The funds, like I mentioned, are not mine, they weren't obtained by me, these funds are available to a family member of mine and in result of that the funds would be made available to me.

30

See, what I want to suggest is that either your instruction to Mr Fung about you being in Pakistan to obtain the money to complete the transaction was false or when you returned from Pakistan you did not have the funds available to you to complete the transaction?---Both statements would be incorrect on your part.

Now, can I show you this document please. And do you see that on 23 July Mr Fung is writing to you and telling you that the settlement has been rescheduled for Thursday, 24 July, 2008, do you see that?---Yes.

40

And again, we're dealing with your purchase of the apartment at 420 Pitt Street, Sydney, do you see that in the heading?---Yes.

And do you see after the numbered paragraphs he asks you to have the following bank cheque available in favour of Meriton Apartments for \$56,816.78 on 24 July, do you see that?---Yes.

And if you turn the page you'll see that a bank cheque was procured from St George Bank on that day 24 July for that sum, do you see that?---Yes.

And if you look at the last page in the series of documents attached you'll see the copy of the bank statement for Medical and Clinical Informatics Consultants from the St George Bank for the period early July through to early August, do you see that?---Yes, that's correct.

10 And if you just run down the entries from the commencement of that bank statement and perhaps pass over the payment to BMW Finance on 11 July of \$2,000-odd do you see on 22 July that a payment of \$49,500 came in from the South Eastern Sydney Illawarra Area Health Service?---Yes, that's correct.

And that relates, doesn't it, to the invoices that were the subject of the requisition forms that were dated 11 or 14 July, 2008?---If the dates match then that would be correct.

20 And so we see, don't we, that that sum having come in and you having deposited \$12,000 on 24 July but the bank cheque that I've just referred you to was sourced on 24 July, you see the entry for the \$56,816.78?---Yes.

Do you know where the 12,000 came from on 24 July?---No, I cannot recall, sorry.

30 But you'd agree with the proposition that the balance of your purchase price that Mr Fung told you you needed to have on settlement was substantially sourced in the funds that came from the hospital?---A portion of them from my pay, yes, that's correct. As do normal funds come from, pay.

All right. I tender that document, Commissioner

THE COMMISSIONER: The bundle, yes, the bundle of documents commencing with Mr Fung's letter of 23 July, 2008 to Ms Sandra Lazarus is Exhibit 105.

40 **#EXHIBIT 105 - BUNDLE OF LETTERS COMMENCING WITH LETTER FROM MR FUNG TO MS LAZARUS DATED 23 JULY 2008**

MR ALEXIS: And Ms Lazarus, Exhibit 105 makes plain doesn't it that in fact the balance of the money to complete that transaction did not save perhaps for the \$12,000 come from Pakistan?---The 12, apart from the \$12,000, the remainder as, as illustrated would have come from my pay.

Did the 12,000 come from Pakistan?---I cannot recall, sorry.

All right. Now after the completion of that transaction, do you agree that your commitment to the St George Bank added an additional thirteen hundred dollars a month to your commitments to that point in time?--- Without doing fine calculations, based on your calculations, I would say that's correct.

10 Well by this stage, that is to say late July, 2008 you had to find \$6,800 a month to pay the Commonwealth Bank, the two loans with St George Bank and the BMW. Correct?---That's correct, yes.

Now the final property that you were obliged to complete the purchase of was the apartment at number 2 Marquet Street, Rhodes?---That's correct, yes.

And that was a transaction that was completed on 18 August, 2008 (not transcribable)?---I'll have to go by the date that you're outlining. I cannot recall.

20 Well can I show you the transfer - - -?---Yes, please.

- - - and before you point it out to me, Ms Lazarus, I need to prove the date of completion by a source other than the transfer because this transfer unlike the others doesn't seem to be dated. Do you see that?---(NO AUDIBLE REPLY)

Do you see that?---I'm just looking for it.

30 The date is blank, about half way down?---Oh, okay, yes.

But do you see the stamp duty imprint across the top right hand corner tells us that stamp duty was paid on 14 August, 2008?---Yes, that's correct.

And my suggestion to you is that the stamp duty was paid about four days or so before completion of the contract?---I'm not sure what the protocol is about stamp duty. I'll just have to go on what you're, what you're suggesting.

40 In any event you'll agree that the purchase price of this property was nearly \$450,000?---That's correct.

I'm sorry, \$550,000?---Mmm.

And that was substantially funded by a further loan that you got from Westpac at St Marys?---That's correct.

And can I tender the transfer, Commissioner?

THE COMMISSIONER: Yes. The, how does one describe this - - -

MR ALEXIS: Commissioner, it's the Memorandum of Transfer for the purchase of the apartment at number 2 Marquet Street, Rhodes. And it was completed on 18 August, 2008. And I'll make that good by another document.

THE COMMISSIONER: All right. The Memorandum of Transfer for, what was it, 2 Marquet Street, Rhodes?

10

MR ALEXIS: It's an apartment at a complex at number 2 Marquet Street, Rhodes. Is that so, Ms Lazarus?---A building, yes.

THE COMMISSIONER: The transfer for an apartment of 2 Marquet Street, Rhodes is Exhibit 106.

#EXHIBIT 106 - TRANSFER FOR SALE OF LAND FOR AN APARTMENT AT 2 MARQUE ST RHODES

20

MR ALEXIS: Now, Ms Lazarus, can I show you please your loan application at Westpac and if you look at the facsimile imprint across the bottom you'll see that it was transmitted perhaps to head office by the St Marys branch on 1 August and if you look at the last page of the application before we get to the attachments and to assist you that's page 10 of that facsimile imprint, you'll see that you've signed it on 18 July, if you could just find that page and confirm that for me, please?

30 THE COMMISSIONER: What page is that?

MR ALEXIS: If one was to follow the facsimile imprint across the bottom of the page, it's the page 10 of 19, sorry, that one has to - - -

THE COMMISSIONER: Right. Well, it's a bit difficult to do that because it's upside down on mine.

MR ALEXIS: I appreciate that, otherwise its page 8 of 8 before one gets to the attachments.

40

THE COMMISSIONER: Page 8 of 8?---Sorry, I still haven't been able to locate that.

MR ALEXIS: All right. Could it be provided to me and I'll turn it up for Ms Lazarus.

THE COMMISSIONER: Yes (not transcribable)

MR ALEXIS: So is that your signature adjacent to date 18 July, 2008?
---That's correct, yes.

And if you turn the two pages before which is page 6 of 8, again is that your signature adjacent to the date 18 July, 2008?---Yes, that's correct.

Now, just turning back to the very front page do you recall seeing a lending manager at Westpac St Marys by the name of Nichol?---Yes, Sandra Nichol, yes, that's correct.

10

So do you remember this one?---Yes, I do.

And do you remember that she took your personal details from you and completed this application in handwriting as you were speaking to her?---It was on the, on the - - -

20

THE COMMISSIONER: Just answer the question, you don't need to read the thing. The answer to the question doesn't depend on what's written. Well, I, I know that and I'm trying to recall whether it was on the phone or if it was in person because we did fill out a form, I'm not sure quite sure if it was this one, over the phone as well.

MR ALEXIS: All right. Well, there are two Westpac applications so, and I'll come to the second one in the minute but this one is one that appears to contain information relating to you in handwriting, perhaps if you turn to page 1 of 8 which is two pages in from the commencement, commencement of the document?---Yes.

30

Do you see the heading "Loan Application" and in big words, in handwriting the words "Purchase property?" Do you see that?---Yes, that's correct.

Is that your handwriting?---No, that's not my handwriting.

So what I want to suggest to you is that you were sitting with Ms Nichol and giving her information that you saw her write down on this form as you were telling her?---Yes, it could be that occasion or on the phone as well 'cause we did have a, quite a lengthy conversation on the phone as well.

40

Well, if it was face to face or whether it was by phone, ultimately you had to receive this document and you had to look at the document because as we've demonstrated you signed it at least twice?---That's correct.

And may we understand that you did your best to give her information that was accurate as you then understood it in relation to your financial details and your employment status?---Yes, that's correct.

Because of course as we've already discussed you well understood that the bank would be relying upon the accuracy of that information to consider whether or not to give you the loan?---Yes, that's correct.

And as page 1 of 8 tells us, next to those words "Purchase property" that are written in handwriting, the loan you were seeking was for \$467,000?
---That's correct, yes.

A lot of money?---(NO AUDIBLE REPLY)

10

It was a lot of money, wasn't it?---That's what you're suggesting, it's not my suggestion.

THE COMMISSIONER: You don't think that's a lot of money?---Well, I've just, I've already, at this stage I already have a property that's worth \$600,000 so - - -

Well, you have a number of properties, you've been on a bit of a buying spree, haven't you?---Well, I bought them in 2006.

20

MR ALEXIS: Now, are the details that we see on page 1 of 8 correct, namely your name, telephone details, address, the fact that you were living with your parents and that you were not a first home buyer?---Yes, that's correct.

And if we look on the second page, that's page 2 of 8, do you see under the heading "Person 1" your full name appears in handwriting?---That's correct.

30

And you see that your title of your job is described as doctor?---That's correct, yes.

And do you see that it's St Vincent's Hospital, Darlinghurst is identified there as your employer?---Yes, that's correct.

And you told Ms Nichol when she was filling out this document that you were a doctor at St Vincent's Hospital, Darlinghurst didn't you?---No. A medical researcher.

40

And what, you think she misunderstood medical researcher as doctor do you?---I guess so because on my payslip it actually, I think there's an error on my payslip which I'll have to see, I think it just, it says medial fellow doctor. And I think that's where they've all derived it from. I have to have a look at my payslip from St Vincent.

Did you tell her that you had started as a doctor with St Vincent's at Darlinghurst on the first month, that is January, 2008? You see the words, date started with employer - - -?---Yeah.

- - - specify month and year and it's written 01/08?---It's very unclear because it actually on top, honestly, she'll have to go by my payslip. I wouldn't have told her the date because I cannot remember dates. I do apologise. Because there's a date up there as well that says 06/08 as well, so I don't know.

THE COMMISSIONER: So there's another person who thinks you're a doctor?---It's based on my payslip. I'm going to have to see my payslip.

10 MR ALEXIS: Well have a look at the document immediately after where you signed the second time on page 13 of the fax. Again, adopting the numbering of the fax at the bottom of the page, if you turn it upside down, you'll see a letter from St Vincent's Hospital?---Yes, that's correct.

And it's plain isn't it that you provided this letter to Westpac in support of your application for a loan?---Yes, that's correct, yes.

And then the search warrant on your premises was executed the original of that letter, which I'm happy to show to you if you want to look at it - - -?
20 ---Yes.

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

Now - - -

THE COMMISSIONER: Was this just simply another duplicate original?
---That's correct.

30 You're filled with duplicate originals?---Yes.

MR ALEXIS: Now do you see that this letter apparently signed by a Katherine Miller from the accounts department - - -?---Yes.

- - - seeks to confirm that you are an employee of St Vincent's Hospital?
---Yes.

And that you were a full time employee, principal hospital scientist. Do you see that?---Yes, that's correct.

40 So on 30 July, 2008 was it true that you were a full time employee of St Vincent's Hospital?---To the best of my recollection, yes, I would have been because my employment was terminated I think late '08. I'm not quite sure of the date, but my last payment that was made to me by St Vincent Hospital I think was in late '08 or early '09 for that 1,000, roughly, I'm just recalling because you've presented with the tax return.

And what did you understand the expression full time employee to mean in this letter in July, 2008?---That I was still employed by St Vincent Hospital on a full time capacity as outlined as the principal hospital scientist.

Well what does that mean? What does your reference to full time employee actually mean in terms of days a week and hours per day, that sort of thing? ---Five days a week, X amount of hours.

10 Well what does X equal in your answer, Ms Lazarus?---Eight hours per day, minus - - -

So you worked a 40 week are you for St Vincent's Hospital as at 30 July, 2008?---A researcher actually never works eight hours, the researcher ends up working 12, 13 hours at a time and it's never accounted for. So it's not really, but in a full time capacity, if that's what you're outlining.

Now you know the person who apparently signed this letter, Katherine Miller - - -?---Yes.

20 - - - does not exist don't you?---No, she exists.

And what I want to suggest to you is that you prepared this letter and that you forged her signature just like you prepared and forged the signature on the letter to RPA and also the signature of Professor Hacker on the letter to the Royal Hospital for Women in April of 2008?---I'm sorry your suggestion is incorrect. I'm not some master forger.

30 Now - - -?---If you have a doubt, I suggest you carry out a handwriting analysis as previously suggested rather than making assumptions, since that is one of the allegations.

Well Ms Lazarus, can I take you up on that?---Yes, please.

ICAC investigators have investigated the proposition of whether or not Katherine Miller worked at St Vincent's at any time - - -?---Yes.

40 - - - whether in the accounts department or in any other department and the answer to that inquiry was absolutely and unequivocally no?---Well there was a person there, Katherine Miller, I saw her, she, I dictated the letter in terms of what, what had to go in there that that person did sign, she sat there, she signed it.

All right.

THE COMMISSIONER: You, you typed this as well?---No, no, I didn't type it. It was typed by her but the information contained in that was provided by me.

MR ALEXIS: Well the terms of the letter are very coincidentally similar to the RPA letter and the Royal Hospital for Women letter - - -?---That's correct.

- - - which purport to confirm your employment status aren't they?---They would be because there's the one person dictating them.

THE COMMISSIONER: Where is (not transcribable)

10 MR ALEXIS: The Royal Hospital - - -

THE COMMISSIONER: The RPA letter.

MR ALEXIS: The RPA. It was tendered this morning.

THE COMMISSIONER: It tendered this morning. (not transcribable) we've got, there is, did you type the RPA letter?---I provided the information, I didn't type it.

20 I understand that?---No, I didn't type it.

MR ALEXIS: Commissioner, that's Exhibit 97.

THE COMMISSIONER: Yes. So the RPA letter was typed by some other person?---His secretary. His secretary.

And the letter from St Vincent's Hospital signed by Katherine Miller was typed by Katherine Miller?---Typed by Katherine, yes. But I provided the information.

30 Did she, Katherine Miller type it?---She typed it, yes. I just provided the information.

Yes. There is another letter, there's a couple of other documents which describe Ms Lazarus as a principal hospital scientist grade 2.

MR ALEXIS: Yes, there the Royal Hospital for Women (not transcribable)

THE COMMISSIONER: Yes. Which one is that?

40 MR ALEXIS: The original is I think Exhibit 8 and the copy is at page 83 of Exhibit 1.

THE COMMISSIONER: Thank you. Do you remember that letter?

MR ALEXIS: It's up on the screen, Commissioner, to assist Ms Lazarus.

THE COMMISSIONER: Do you remember that letter Ms Lazarus?---Yes.

Who typed that?---I typed that, Helen didn't type that.

Right?---But that's based on conversations and everything. Yeah, I did type - - -

Do you know how, could you please spell for me the word principal in the context of principal hospital scientist?---I'm dyslexic so words do go around - - -

10

Just spell it for me?---Principal, P-R-I-N-C-I-P-L-E.

Well, it's the incorrect spelling and I don't criticise you for that. The correct spelling is P-R-I-N-C-I-P-A-L?---Okay.

I think you, can you just also look at the, the letter that Professor Hacker wrote to Vanessa Madunic?---Yes.

20

Did you type that?---Oh, yes. I've already said yes to that.

Yes. All right. Well what we have are four letters, two of which you typed. One typed by Professor Adams' secretary and one typed by Katherine Miller in which principal is spelt incorrectly?---So four of them have it incorrectly?

Yes?---I cannot remember typing them.

30

So you're saying that not only do you make the spelling mistake - - -?
----No, no, no.

- - - not only, well it's a very, can you explain why your incorrect spelling of principal is duplicated by the person who signs the letter which seems to be signed by Katherine Miller and the letter which Professor Adams' secretary types? Why do they, can you explain why everyone makes the same spelling mistake?---No. I typed the two before. As far as I recall that they typed these two. I could have provided them with the information on a USB and they could have copied and paste it through. That could be another suggestion, because I cannot recall, but to the best of my knowledge it was on their computer and they did print it out.

40

The inference is that you typed all of them?---Like I said I might've typed all of them, provided them a USB but it's something they printed.

So your evidence that Katherine Miller typed it and that Professor Adams, the secretary typed it you're withdrawing that evidence?---No, no, not withdrawing that. In terms of typing they've viewed it, they've looked at it, if that's the case there are times where I've dictated it but if there is a mistake in terms of what my position is I would've had a soft copy of it as

well, I would've provided that. In terms of their signature and Mark Adams' signature and Neville Hacker if you went to the trouble to find out about Katherine Miller I suggest you go to the trouble of finding out how authentic that signature is as well before - - -

You have made that point several times?---Yep, thank you.

10 MR ALEXIS: Now, Ms Lazarus, what took us to the letter of 30 July, 2008 from St Vincent's was your suggestion that the description of doctor came from your payslips or documents relating to matters of pay. Do you remember your evidence about that?---Yes, that's correct. Yes.

Can you tell me what it is in the letter from St Vincent's of 30 July, 2008 that would lead the reader to think that you were employed as a doctor?---I don't know and it wouldn't be a suggestion made by me either because it clearly outlines what my position is as a hospital scientist.

20 Do you agree with the proposition there's nothing in this letter that would suggest to a reader acting reasonably that you were employed by the hospital as a doctor?---Definitely not because that's not how I was.

And what I want to suggest to you is that you told Ms Nichol or whoever processed this application with the information that you provided that you were employed as a doctor at St Vincent's?---That would be incorrect.

Well, have a look at the next page - - -?---Yes, I'm looking at it.

30 - - - behind the St Vincent's letter which on the facts for identification purposes is at page 14 of 19. Do you see that on the internal document of Westpac your occupation is described as that of doctor, general medical practitioner, do you see that?---Yes.

Now, you would agree with me wouldn't you that at the time of your signing of this application in July 2008 it would be false to have represented yourself to Westpac as general medical practitioner?---At no point did I present myself as a general medical practitioner manager, general medical practitioner because you actually need a number that outlines that.

40 But had you been presented as such it would've been a completely false proposition wouldn't it?---That's them making the presentation not me because you need like a provider number, I believe that's what it's called, to be a general practitioner (not transcribable) to do that.

Well, can you explain to me how it could be that in and amongst an application that you made to borrow a significant sum of money from Westpac they would have you recorded in their records as being a general medical practitioner?---I'm sorry, I wouldn't be able to answer that on behalf of the bank.

The answer's obvious isn't it, you told them so?---No, that would be incorrect.

THE COMMISSIONER: If you go back to page 14 of 19, do you see the line Occupation? See where it says Occupation?---Page 14?

Yes, 14 of 19?---Yes.

10 There's a number there 2-3-0-1-1, what's that number?---I don't know.

Is that a provider number?---That's not a provider number, no.

How do you know that?---Provider numbers always start with a letter.

How do you know that?---Through experience. That's something to do with internally, I don't know.

20 So do you know where Westpac got the information from that's contained in this document that's at page 14 of 19?---At no point - - -

Do you know where they got it from?---No, I don't.

Yes, thank you.

MR ALEXIS: Now, - - -

30 THE COMMISSIONER: Sorry, one other question. When it says E-T-R-A I-D what is that, do you know?---No, I'm sorry, I don't know.

And your driver's licence is there?---Yes.

Where do you think they got that from?---From, I would've, don't they take a driver's licence photocopy?

I'm asking you?---From my driver's licence photocopy, I don't know, sorry.

40 MR ALEXIS: Now, can I bring you back to page 3 of 8 of this application, Ms Lazarus, and do you see that at the top of the page we have a second reference in handwriting at least to your job title as doctor but in the context of previous employment, do you see that?---Yes.

And do you see that the previous employer is referred to as Strathfield Private?---Yes, that's correct.

And do you see that the date employed with previous employer has the words or the reference to four years?---Yes, that's correct.

And do you see that below that the box is ticked to indicate that your employment as a doctor with Strathfield Private for the previous four years was fulltime?---It was, from 2007 it was on fulltime basis.

But this is an application that you gave in July 2008?---Yeah, previous employer, it wouldn't be four years.

10 It would be completely false to represent to the bank wouldn't it that you'd been employed as a doctor with Strathfield Private for four years prior to July of 2008, correct?---At no point did I represent myself as a doctor employed by Strathfield Private. I was a researcher at Strathfield Private for about eight months roughly.

20 Well, if you didn't provide that information which is recorded on page 3 of 8 of the loan application which you signed, Ms Lazarus, where do you think that came from?---I basically told her I was employed by Strathfield Private, not for four years, more like four months it was, if I can recall. Again, you will have details of my employment a little bit better than I would but that was on fulltime basis and again, there is a letter by David Gilette outlining that employment.

So when you came to sign this application at page 7, I'm sorry, at page 6 and page 8 I take it that you didn't think you needed to point out to the bank that you weren't a doctor and that you weren't employed as a doctor at St Vincent's and that you hadn't been employed as a doctor at Strathfield for four years?---There's no information populated in any of the fields on page 8, sorry, page 6 of 8 at all.

30 Well, Ms Lazarus, there's nothing to be populated, this was information that was provided by you, I'd suggest, and recorded by the bank officer in this application. You were then asked to sign it. My question is why didn't you point out when you came to sign this application that what had been represented about you being a doctor at the two hospitals for the duration indicated was completely false?---It should've been pointed out by me the title was incorrect and it should say four months not four years.

Why didn't you point that out?---I think I overlooked it.

40 How could you overlook that, it's obvious isn't it? Anyone looking at this application would see that you're a doctor and that was probably false. Why didn't you point that out?---I should've pointed it out.

See, the truth is - - -?---That was my mistake.

The truth is that you were quite happy for Westpac to consider your application and deal with it on the basis that you were a doctor having been employed as a doctor for four years at Strathfield Private, being presently employed as a doctor at St Vincent's and earning the income set out on page

3 of the application, that's the case isn't it?---No, that would be incorrect on your part.

Well, have a look at page 3, Ms Lazarus?---Yes, that's correct, I'm looking at it.

Well, you told the bank that your monthly income after tax, right, so we're talking about net income per month was \$6,497?---It was actually 7,200 so I think that's incorrect as well.

10

What, you understated your income to the bank, is that what you're saying? ---Yes. I think so, yes. 'Cause it's around 7,000 for the four months that I was there.

But, of course, when you look in your 2008 income tax return and we look in your 2009 income tax return there is nothing returned in either of those tax returns that would demonstrate that you were earning anything like \$7,000 a month from St Vincent's Hospital is there?---St Vincent's, do you mean Strathfield Private?

20

No, St Vincent's?---But you said page 3.

Page 3 sets out your financial details. You see the heading which then deals with gross annual income?---Yes.

And then it says my monthly income. Now, it's plain isn't it - - -?---Sorry.

- - - that that's dealing not with your past income but your present income? ---I do apologise, I thought you were referring to Strathfield Private.

30

And what you told the bank was that you were earning about six and a half thousand dollars a month from St Vincent's Hospital?---I think I would've been mistaken there 'cause I referred - - -

Oh, why, because you should have told them it was 7,000?---That's right and that would have been through Strathfield because that's what must have been referred to and it's an error that made.

Well, Ms Lazarus, if that, if that's true, that you were earning \$7,000 a month from St Vincent's Hospital - - -?---Strathfield Private.

40

No, from St Vincent's Hospital or Strathfield - - -?---Yes.

- - - it doesn't matter for my question?---Yes.

Why don't we see a reference to that sort of income from either of those hospitals in your 2008 or 2009 tax return?---I have claimed the Strathfield Private.

THE COMMISSIONER: But not that kind of - - -

MR ALEXIS: But not that sort of money, Ms Lazarus?---I think it was through a contractor not as an employee, that's why.

THE COMMISSIONER: That's \$84,000 a year?---That's correct.

10 You didn't, you didn't disclose that in your tax return?---I, I did.

As salary?---A contract through the companies not as an employee number.

You really didn't?---I did claim all tax.

MR ALEXIS: Ms Lazarus - - -?---(not transcribable)

- - - come back to page 2 of the application please?---Yes.

20 And do you see underneath the reference to doctor and adjacent to your employer being St Vincent's, you've, you've ticked the box or the bank officer has ticked the box, self-employed, no, do you see that?---Ah hmm.

And what was represented to the bank was that you were a full-time employee of St Vincent's Hospital earning 6,497 after tax per month, that's what was represented, wasn't it?---If you feel that's, that's what it (not transcribable)

30 Well, that's what the document says isn't it, Ms Lazarus?---Well, it's not my handwriting, I'm sorry, it's not - - -

But that's what you told the bank and it's reflected in the application that you signed?---Well, that's what's based on the fact that a payslip was provided by St Vincent Hospital it would have been at the time and I guess a payslip would have been, or pay information would have been provided by Strathfield Private as well, information that's indicated - - -

40 Ms Lazarus, if any of that was true we would see some reference to it in your income tax returns and we don't. My question is why don't we?---I have claimed to the best of my knowledge every cent that I have earned through the hospitals. St Vincent Hospital pay actually reflects, payslips that you actually have reflect that I've earned in one month \$9,000 to the best of my recollection, that's illustrated there so the \$6,000 would actually be an understatement to that pay. In terms of Strathfield it was \$7,200 per month and again you have documentation that were available in my black folder outlining that payslip and to the best of my knowledge I have done the best I can in the tax in terms of claiming everything. It was pointed out something that was left, I have since then taken the steps to amend that.

Ms Lazarus - - -?---Yes.

- - - you've signed this application for the loan 18 days into the 2009 financial year, haven't you?---Yes.

You're telling the bank that you've been employed by St Vincent's from January 2008 as a full-time employee earning \$7,000 a month. Now simple arithmetic will tell you that one would expect to see something like \$42,000 disclosed in your income tax return for the 2008 year. We don't see it, do we?---You should see it.

Well, we've been through it. I can take you back to the tax return but there's not a word of you earning St Vincent's, earning income from St Vincent's Hospital anything like \$42,000 in your tax return is there? ---That's because there's 13,000 in my tax return illustrated as an employer and the remainder would have been about \$20,000 or so as a contractor so that's what - - -

Ms Lazarus, you know that's completely untrue, don't you?---No, that's untrue. That's what it should reflect.

THE COMMISSIONER: You are required to set out your income in your tax return whether as a contractor or an employee, it doesn't matter?---Well, I've done my best to do that.

Well, you haven't said, your tax return doesn't show anything like \$40,000-odd income received?---It, it, it does, to the best of my knowledge, I don't understand why you keep saying that because 13,000 was as an employee with an employee number, that's what I understand and the remainder was as a contractor through Medical, sorry, Complete Health, no, not Complete, Medical and Clinical Informatics so as, I as a person did receive that amount of money so I don't understand what you mean in terms of reflection in my tax return because I did do my best.

MR ALEXIS: You see, Ms Lazarus, what I want to suggest to you is that - - -?---Yes.

- - - again you were prepared to say and do whatever was necessary to procure a loan from Westpac so that you could complete the last of the four contracts that were to be completed during the 2008 year?---No, that would be incorrect on your part.

I tender this application for finance, Commissioner, which is dated, according to Ms Lazarus' signature, 18 July, 2008.

THE COMMISSIONER: Yes, Ms Lazarus' application for finance to Westpac dated 18 July, 2008 is Exhibit 107.

**#EXHIBIT 107 - APPLICATION FOR FINANCE TO WESTPAC
DATED 18 JULY 2008**

MR ALEXIS: Thank you, Commissioner. Now, Ms Lazarus, do you recall making a further loan application to Westpac?---Sorry, would, would this be a good time for that break since it's not in a crucial point?

10 THE COMMISSIONER: What time are we going on to, Mr Alexis?

MR ALEXIS: Well, Commissioner, I'm happy to go on as long as you can bear me, Commissioner.

THE COMMISSIONER: We'll adjourn for five minutes.

SHORT ADJOURNMENT

[3.46pm]

20

MR ALEXIS: Now, Ms Lazarus, in relation to the loan from Westpac, do you recall completing and signing a further application in mid August 2008, shortly before the transaction was completed?---For which loan?

For the loan for the last property that you purchased?---If that's the date then that would be (not transcribable)

30 Just have a, just have a look at these two further applications and can I indicate as these come up to you, Commissioner, that is the last finance application I propose dealing with.

THE COMMISSIONER: Right?---Can I, is this an electronic copy or is it the same application? Sorry, I'm a little unclear.

MR ALEXIS: Well, perhaps, well, perhaps you can, you can help me because the handwritten application which has become Exhibit 107 that we spoke of before we adjourned, that's the one you signed on 18 July, 2008 - - -?---Yes.

40 - - - seeks approval for a loan of \$467,000. The document that I've just showed you which is in the typed form and is headed "Personal finance application" also seeks what's called a loan for personal investment purposes of \$467,000, do you see that?---So it's for the same property?

The same property and it seems to be for the same amount?---It's the same loan, is that correct or - - -

Well, I'm asking you, Ms Lazarus, I, I don't know?---Can I have a look at the one that was handwritten, please?---Of course. Sorry, it's just very unclear.

You see, if you look at page 1 of 8 of Exhibit 107 you'll see that the loan was for \$467,000 and that seems to be the same amount referred to in the typed document that I've just shown you. Do you see that?---Yes, yes, that's correct.

10 And your counsel has just helpfully drawn attention to the very last page of the document that I've just provided to you which is a stamp duty declaration that you signed on 13 August, 2008 that identifies the address of the property in the first bullet point, do you see that?---What page would that be?

This is the very, the very last page of the document I've just provided to you?---The declaration?

20 Yes, do you see the address of the property next to the first bullet point?
---Yes.

So should we understand that although this seems to be a separate application for a loan it related to the same loan amount and seems to relate to the completion of the contract for that property at 4 Marquet Street, Rhodes?---Oh, I think it's 2 Marquet Street, Rhodes.

30 In any event, it was the final of the various contracts that you'd entered into which was due for completion, is that so?---I think the two are in one, I only remember, I only remember doing one application for that one property at Westpac.

Well, just working backwards - - -?---I don't understand why you're showing it to me.

- - - on the document that I just provided to you - - -?---Yes.

- - - there's no doubt that's your signature on 13 August, 2008 - - -?---Oh, yes, yes it was definitely, that's my signature.

40 And if you work backwards through the document you'll see two pages in there's a provision of credit declaration that you also signed that day, 13 August?---Yes.

And again if you work back there's your signature again 13 August, 2008 - - -?---Oh, yes.

- - - relating to the, the application?---Yes, that's correct, that's my signature.

Thank you. And if you identify just working back through the document, some page numbering in the bottom left hand corner, could you find page 6 for me, please. Do you have that?---Yes, that's correct.

And do you see under the heading, Other Acknowledgements and Consents, the reference to the information contained in the application and the financial information supporting it are in all respects complete and correct?
---Yes.

10

I acknowledge the lender will rely on the information. Do you see that?
---Yes, that would be in the same position as the previous (not transcribable).

And the same position, so we're clear, is that you understood the importance of providing accurate information because you knew the bank would rely upon it for the purpose of assessing the loan?---Of course, that's, that's why I submitted relevant supporting documents.

20

Now do you recall how it came to be that the information concerning you, and I'm back now on the front page of the document I provided you, can you recall to mind how it was that this information was provided to the bank in relation to this application?---I, like I said, I only recall doing one application. And because I think the two are one. One's just an electronic copy and one's a handwritten - - -

THE COMMISSIONER: Well that couldn't be right because the one you've signed, the earlier one, which is Exhibit 107, you signed on 18 July or 8 July.

30

MR ALEXIS: 18 July.

THE COMMISSIONER: 18 July and this one you signed on 13 August?
---Yeah, I'm sorry, I just can't recall what this other application is in relation to, because there was only one property that was, that I applied a loan for and that was 1038/2 Marquet Street. If you have a look it says 4 Marquet Street here, which again, I completely dismissed. The address of the home is even incorrect or the street. Something I overlooked. There was only one loan that was, I applied for only one loan, one property was
40 obtained through that loan. That is my signature.

MR ALEXIS: Well if the details in the document aren't correct why did you sign it four or at least five times?---It was an oversight by me on this date.

Now - - -

THE COMMISSIONER: The first one was the application that was refused?---No, I don't think so, because it was, I know her name because it's the same name as mine, Sandra Nichols was the one that provided me with the home loan.

MR ALEXIS: Can you just look at the front page of the document I provided to you?---Which one, sorry?

And, and - - -?---(not transcribable) copy?

10

Well let me refer to it so I don't need to keep repeating this. It's the 13 August application?---Okay.

THE COMMISSIONER: And (not transcribable)

MR ALEXIS: And I do so because you signed it and dated it that date. Do you follow?---Yes, yes.

Now on the first page of 13 August application - - -?---Yes.

20

- - - you see your name details, your date of birth details, address, telephone number details and they were correct at the time you signed it on 13 August. Is that so?---Yes.

And if you turn to the second page and I'm adopting the numbering in the bottom left hand corner of each page and do you see that it records your employment details in two respects. One in relation to employment with the Royal Prince Alfred Hospital from 7 January, 2008 and one in respect of your employment at St Vincent's Hospital from 2 June, 2008. Do you see that?---Yes, that's correct, but I think the dates are incorrect.

30

And what you're telling me is that the dates should be swept over because it was from 2 June, 2008 that your employment with the Royal Prince Alfred Hospital, according to the letter that we went to earlier, which is dated 2 June, 2008 indicates?---Yes.

In any event what I'm suggesting you told the bank before signing this application was that you had two employers, one being the Royal Prince Alfred Hospital and one being the St Vincent's Hospital and that you were working for both in 2008.

40

THE COMMISSIONER: As a doctor.

MR ALEXIS: As a doctor?---No. That would be incorrect because I would have been St Vincent and like I said I know I've signed it, but there are things that I've overlooked and like you've mentioned and brought up the dates even need to be swapped around. Something again I overlooked. Just due to the fact that I was sheer busy or I've just taken the document as face

value. Now examining it, it needs to be, there are certain errors printed on here.

Well you identify errors but what I wish to suggest to you is that in providing the information that you did to the bank, you represented yourself as a medical practitioner type of doctor, employed full time by those two hospitals in the 2008 year. And you did so for the purpose of obtaining the loan?---That would be incorrect.

- 10 Well how should we understand the bank in dealing with your application which you signed learnt of your employment status as a medical practitioner type doctor with those two hospitals if you didn't tell them that?---Like I said, even the letters that I have provided state nowhere that I'm a medical practitioner. Like I've previously mentioned, for them to even consider me as a medical practitioner I have to have a provider number, a provider number which I do not have.

- 20 But Ms Lazarus, this is the fourth loan application that you've made to a bank that we've been through today and in every one of them you are referred to as a doctor. Now it's a extraordinary coincidence isn't it that in every loan application you made in the 2008 year you've described yourself as a doctor or at least the application that you signed describes yourself as a doctor and you keep telling us that you didn't convey that representation to the banks?---That's correct. The documentation that I would have provided them, they must have concluded from that the area that I work in, they must have concluded from that. At no point whatsoever is anyone that silly to put themselves as a doctor without having a provider number.

- 30 And you make that assertion do you when, as I think we've already established, there's nothing in the terms of the letters that we've spoken of and that the Commissioner asked you questions about in relation to the RPA letter, the St Vincent's Hospital letter or the Royal Hospital for Women letter, there's not any reference in any of those letters to you being a doctor. So how is it that you say the banks concluded erroneously if you didn't tell them that you were a doctor?---I don't know. I'm sorry I can't, I answer that on behalf of the bank.

Well the answer is obvious isn't it?---No, it's not.

- 40 That's how you represented yourself to each of these hospitals?---No, I'm sorry, you have to provide documentation, relevant documentation to support that you're a doctor or not, which you can clearly see is missing. Like I said a provider number, they cannot make that assessment that I am a doctor or I'm not a doctor if relevant information is not provided.

See what I want to suggest to you is that the only credible explanation that can be given is that you represented yourself as a doctor to the St George Bank and to Westpac in order to obtain these loans?---That's incorrect.

Now just have a look on page 3 of the 13 August application. And you see there the application represents your base monthly income, \$6,497?---That's correct.

And do you see that it also represents income from not only your existing rental properties but also the rental property to be purchased. Do you see that?---Yes, that's correct.

10 And can you explain to us why the 13 August application in so far as it represents a base monthly income net, that is after tax of \$6,500 is not something we see any reference to in your income tax return for either 2008 or 2009?---I think I've already answered that question, addressing the application that was handwritten. The information from the handwritten application was just populated on this electronic application and I think I've already put that clear in terms of the payment I had received and the payslip that I did present from St Vincent Hospital and the contract based income that I have earned.

20 But madam, your tax return for 2009 returns thirteen hundred dollars from St Vincent's and not a cent more. So how on any basis could you have represented a base monthly income after tax of \$6,500 when your income tax for that year shows that from St Vincent's you only earned thirteen hundred dollars?---That would be as an employee, but you're dismissing the fact that I did work as a contractor with St Vincent Hospital.

But this application doesn't say a word about you receiving income as a contractor does it?---There's no space for it as far as I can see.

30 Well, it doesn't deal with it because you're described as a fulltime employee of a hospital not as a contractor?---Well, it should be, there should be a space there for it to say yes or no as a contractor or what the details are. I'm sorry, there's no details there. I've just gone with the ball figure.

THE COMMISSIONER: Your income tax return requires you to set out your income?---Yes, I have set my income out there.

And the income from St Vincent's which is \$1,300-odd plus your rental income plus the income from the trust, that's all?---Yes.

40 So where's the income as a contractor?---That was through Medical and Clinical Informatics so it will be in that tax return, wouldn't that be correct?

MR ALEXIS: I tender the 13 August application to Westpac, Commissioner.

THE COMMISSIONER: Yes. The 13 August Application for Finance to Westpac is Exhibit 108.

#EXHIBIT 108 - PERSONAL FINANCE APPLICATION DATED 13 AUGUST 2008

MR ALEXIS: Thank you. Now, I said earlier I would deal with the date of completion of the contract for the last of the various properties. Can I show you a letter from JR Lawyers, Ms Lazarus, - - -?---Yes.

10

- - - to Westpac dated 15 August, 2008 and does that assist in confirming that the completion of the contract was on 18 August, 2008?---Yes, as outlined, like I said I can't recall but as outlined in the letter.

You recall earlier I showed you the transfer and I drew your attention to the date not being on the transfer and I said I'd prove it by something else? ---Yes, that's right.

20

Are you satisfied from this letter that that was the date of completion of that contract?---According to the letter yes, thank you.

Thank you. I tender the letter, Commissioner.

THE COMMISSIONER: Letter dated 15 August, 2008 from JR Lawyers to Westpac is Exhibit 109.

#EXHIBIT 109 - LETTER FROM JR LAWYERS WESTPAC DATED 15 AUGUST 2008

30

MR ALEXIS: I'm going to Exhibit 37, Commissioner. Now, Ms Lazarus, you recall also when I drew your attention to that transfer in relation to that property I noted the date of the payment of the stamp duty, 14 August, 2008?---Sorry, I don't have the document with me.

40

All right. Well, we'll go back to it to refresh your memory. Yes, could I have access to 106 please. Now, I'm just going to show you Exhibit 106, Ms Lazarus, and you'll see, and I just ask you to confirm, that the stamp duty in respect of that transfer and contract was paid on 14 August. Do you see the date stamp?---There's a date stamped on there, yes.

14 August?---14 August.

Right. That can be returned, thank you. Now, you should have before you Exhibit 37, is that so?---Yes.

And if you could turn please to the second page of that exhibit you should see a transaction record from St George Bank bearing date 14 August, 2008, do you see that?---On the first page or the second?

I said the second page?---Second page?

Of Exhibit 37. The first page should be a cheque to St Vincent's Hospital for 10,000?---I'm sorry, I think I've got the wrong document.

10 THE COMMISSIONER: Exhibit 37 is the statement of account on Freedom Business.

MR ALEXIS: I note that that is 36. Can I have access please to Exhibits 36 to 38 inclusive.

THE COMMISSIONER: The 36 that I have is the cheque with the other documents. My note is that 36 is the Wish Consulting bank statements.

20 MR ALEXIS: I see. I've got them around the wrong way. Thank you. Ms Lazarus, what I wish to show you is Exhibit 36 not Exhibit 37. Do you have that?---No.

All right. It will be found for you. And if you could turn that bundle please to the second page which should be a St George Bank transaction slip for 14 August, 2008. Do you see that?---Yes, that's correct.

And if you come to the bottom of that page above the words "outstanding fees" you'll see a reference to the Office of State Revenue, do you see that?
---(NO AUDIBLE REPLY)

30 And then two lines above that you'll see a reference to a bank cheque for \$25,425.94?---Yes, that's correct.

And what I want to suggest to you is that that was the bank cheque that you obtained on 14 August to pay the stamp duty on the contract and transfer to which I just referred?---Yes, according to the dates, yes, it would be and the cheque number.

40 Now, can I, see if you agree with this proposition that the bank cheque was sourced from firstly, the Medical and Clinical Informatics bank account as to \$10,425.94 and the balance of 15,000 was sourced from the bank account of Wish Consulting?---That would be correct, Michelle would've lent me the money, yes.

Now, I just wanted to come to that. So we should understand that in order to fund the stamp duty on this particular property you were able to utilise Wish Consulting funds, is that so?---I was able to borrow money off my sister.

All right. And when you tell us that you borrowed that sum from your sister how should we understand that arrangement came about?---She's my sister.

Well, we know that but could you attend to my question please?---Sorry, I don't understand, she's a, she's my sister, she's a family member. What do you mean how do I come to borrow?

10 How did you come to borrow \$15,000 from Wish Consulting?---Do you mean physically go there or talk to her or, I'm sorry.

Well, you've told me in two of your answers that you borrowed the money from your sister?---Yes, that's correct.

How did that come about?---I asked her, I said, Michelle, can you please, can I borrow money off you, I'm a little short. She said, No, that's fine. And that's how it came about.

20 See, what I want to suggest to you is that she, that is your sister, gave you the PIN number so that you could activate the Wish Consulting bank account?---We all had PIN numbers for all, like I know her PIN number, she knows my PIN number, I know my mother's PIN number and she knows my, it's just a family trust that we have, it's got nothing to do with - - -

So with the PIN number should we understand that you were able to access the Wish company's bank account as and when you wanted to?---No, that would be incorrect.

30 Why? Because you'd speak to your sister first before you did so?---I don't have the card.

I thought you just said you had access to the PIN number?---I had access to the PIN number but not the card. You have to have the card to have, utilise like you said that account. Having a PIN number will do no good if I don't have the keycard.

You agree with the proposition, don't you, that in the period from July or August 2008 throughout the rest of that year - - -?---Ah hmm.

40 - - - you utilised a significant sum of money that was in the Wish Consulting bank account for your own personal purposes?---No, that would be incorrect.

Well, if you look for example at the first page of Exhibit 36 you see that that's a cheque drawn on the Wish bank account to St Vincent's Hospital?---To the first, yes, that's correct.

And that was a cheque that you wrote out?---No, that's not correct. That's not my handwriting and that's not my signature.

But you asked for the cheque from your sister and you used the cheque and paid St Vincent's with it, didn't you?---No, that's incorrect. I asked her to loan me or give the money as I was short. She politely obliged hence she made that, well, filled out that cheque, signed it and that's how it was - - -

10 So we should understand that you asked for and she obliged the 10,000 to St Vincent's 'cause you asked for it?---That's correct.

She obliged your request and loaned you \$15,000 to cover your stamp duty? ---She did, yes, that's correct.

And if we look at the next document in the series in Exhibit 36 there's a further sum of \$20,000 that was paid out to you?---That's incorrect. I don't know who it's paid out to. I'm sorry, it doesn't outline who it's been paid out to. I don't know what that is.

20 Well, do you have a recollection of asking for and obtaining \$20,000 from your sister's company's account in November 2008?---Not at all. I cannot recall. The reason I'm, I am recalling that is because I remember asking her for that and I do remember the stamp duty roughly but again, I wasn't aware of which property it was for but you have stated according to the date that that's the property there but in terms of that it's nothing, I'm sorry, it's not the fact that I - - -

30 Now, the next document is a cheque of 3 December to St Vincent's again for nearly nine and a half thousand dollars, do you see that?---Yes, that's correct.

And again should we understand that you asked for it and she obliged? ---Yes, that's correct.

And then the next document on 15 September, 2009 is a withdrawal of \$49,000 from the Wish bank account which was transferred to the Medical and Clinical Informatics account, do you see that?---Yes, that's correct.

40 And if you look at the following page which is the bank statement for your company you'll see that on 15 September \$49,000 came into that account? ---Yes, that's correct, yes, according to the receipts.

Can, can you tell me what that was for?---I'm sorry, I can't recall. It was obviously not for anything to do with homes or anything like that. I really cannot recall but it would have been for, I'm sorry, I just can't recall as to what that would have been for but I would have asked her for that, those funds and - - -

Now, do you recall that the \$49,000 transfer on 15 September followed the receipt by Wish Consulting from the Northern Sydney and Central Coast Area Health Service of \$49,000, \$49,500 the day before?---I'm sorry, there's no document stating that.

Well, have a look at Exhibit 27 and on the last page of the series of bank statements in that exhibit?---Sorry, where were you directing me to?

10 I'm directing you to the very last page of the bank statements for Wish Consulting and I'm directing your attention particularly to the deposit that was received from the Area Health Service on 14 September, do you see that?---Yes, that's correct.

And if you look at the withdrawal on 15 September which comes into your company's bank account that day it's obvious isn't it that the transfer occurred the day after Wish Consulting received those funds?---Yes, because I would have asked her for those funds and when they were available to her she would have politely obliged.

20 And the request and her politely obliging was for what purpose?---I cannot recall, I'm sorry.

THE COMMISSIONER: It wasn't very long ago?---There were several projects apart from, like there was the cosmetic project and things like that, we must have utilised for one of those projects but I cannot remember exactly what they were utilised for but, again, it had nothing to do with the home loans or it had nothing to do with the hospital or anything like that. It would have been something completely unrelated.

30 It's only five months ago, six months ago?---Well, I'm trying to remember.

\$49,000, does that mean nothing to you, a small amount is it?---Well, it's not the question of the amount, it's just that I cannot recall. I'm trying to recall everything to the best of my recollection and I really have - - -

MR ALEXIS: But Ms Lazarus, there must have been an obvious need for money in September 2009 because the day after a large sum of money is received from the Area Health Service all but \$500 of it is transferred into your company's bank account?---Yes, that's correct.

40 Well, why did you need \$49,000 in September 2009?---Well, if I could remember I would be able to tell you that. I just cannot recall what the purpose of the \$49,000 were.

So what I want to suggest to you is that - - -?---Yes.

- - - that although as we've heard Wish Consulting was a company that your sister was the director of and the sole shareholder of - - -?---Ah hmm.

- - - that was a company and that was, and its bank account was used for your own purposes and that you were able to transfer and utilise funds as and when you wanted to?---That would be incorrect.

10 Because in my suggestion to you, it was effectively the result of your submitting of invoices that you did for Wish Consulting to each of the hospitals?---That would be incorrect because there were services provided which you have evidence of, invoices were signed, signature, authenticity can be proven.

Have you ever paid your sister's company back the \$49,000?---Once the money will be available to me I will pay it back. Like I said - - -

Is the answer to my question no?---No, not as yet, no.

20 All right. Have you paid back any of the other sums that we've stepped through in relation to Exhibit 36, the stamp duty or any of the other funds? ---I have paid some back. I'm sure if I - - -

THE COMMISSIONER: How much?---Sorry?

How much?---Yeah, that's what I'm trying to remember, that's what I was saying, like I cannot recall but I'm sure it's a, some sort of amount. She had, does have a child and a husband, in 2009 she got married as well which did take up a lot of funds, her reception was at the Opera House so - - -

30 No, I'm not interested in where her reception was it?---I'm just saying it would have, you asked me where, did I pay it back.

MR ALEXIS: Now, Ms Lazarus, would you agree with me that after the completion of the last of the property acquisitions your monthly commitment to the bank in respect of that loan to Westpac was about twelve hundred dollars a month?---According to your maths, yes, like I said, I don't have a calculator or anything - - -

Well, Ms Lazarus you were the one that was paying - - -?---(not transcribable)

40 - - - it each month, surely you've got some idea of what your - - -?---Some rough idea, yes, around that amount.

- - - monthly commitment to Westpac would have been after the contract was completed in August 2008?---Around that amount, yes.

So do you accept from me that it was about twelve hundred dollars in respect of that property?---Just from the numbers you're going, you're telling me I - - -

So if we add that to the \$6,800 a month that we've already spoken about in relation to the other properties and the BMW that meant, did it not, that you had a monthly obligation in relation to real estate investments and an expensive car of about \$8,000 a month?---Again on your maths that would be correct.

10 And, again, it's perhaps clear that your only source of income during the 2008 and 2009 years to service that obligation was the invoices that were submitted to the hospitals for payment, is that so?---That's the job I had in, well, that's the job I held in 2008 and 2009.

And that's the only job you had?---They were full-time jobs I could not divide myself even though I did have other projects or other interests, personal interests.

Now, can I just ask you some questions about the way you deal with matters of taxation?---Sorry.

20 In relation to company income tax - - -?---Yes.

- - - it's the case isn't it that your two companies has not paid its income tax to the Taxation Office for the 2008 and 2009 tax years?---No, I did put in a tax, I have claimed tax on that.

You may not have understood my question, Ms Lazarus?---Yes.

30 My suggestion to you is that Medical Information Consultants and Complete Health and Medical have not paid income tax for the last two financial years?---Sorry, I don't understand, in terms of, what do you mean by pay, I did put the tax return in.

We know that, but you haven't paid the tax that was - - -?---You mean physically pay the money?

Correct?---Oh, okay. I have paid a portion of it. There's a portion still outstanding.

40 How much is outstanding in relation to Medical Informatics Consultants?
---I'm sorry, I cannot tell you that, I'll have to - - -

How much is outstanding by Complete Health and Medical?---I wouldn't be able to tell you either.

See what I want to suggest to you just so it is very clear to you that although tax returns have been lodged for each of those companies for the 2008 financial year, the 2009 financial year and the 2010 financial year, and those are the years of income in respect of which invoices were submitted - - -?

---Yes.

- - - at Royal Women's and Royal North Shore - - -?---Ah hmm.

- - - and those invoices were paid. In respect of those tax years, those companies have not paid income tax?---Have not paid the money for - - -

Not paid the tax. That's right isn't it?---Oh the tax has been claimed. I don't know why you're saying that - - -

10

THE COMMISSIONER: But the tax is assessed, you haven't paid the - - - ?---But paid them - - -

- - - Australian Tax Office the tax that's owing by the company (not transcribable)?---Oh, I have a portion of it and the rest is on a payment plan. That's because of this all upset, I have not been able to work since, well late 2009, 2010. All of 2010. So I've been on a payment plan to return, pay the remainder, the outstanding.

20

MR ALEXIS: So one of the ways that you've been able to meet your commitments to banks and to others is to not pay your tax and pay your commitments in preference to paying your tax. Is that so?---No, that would be incorrect.

Now in relation to quarterly reporting by each of those companies, should we understand that your accountant, Mr Young prepared the quarterly business activity statements for each of them?---Yes, he did. Yes.

30

And did he prepare those BAS statements, if I might use the shorthand - - - ?---Yes.

- - - based on information that you provided to him?---Yes, yes.

And is it the case that you would tell him the amount of sales that the company achieved in a particular quarter. Is that so?---That's correct. Yes.

And of course those sales included GST?---Yes, that's correct.

40

And we should understand by reference to any one of the invoices that were generated by your companies that the - - -?---Sorry, the invoices to the hospitals you mean?

Correct. They claimed an amount of money which included GST?---That's correct. Yes.

And so when remitting quarterly the GST, it was important as you understood it to declare in the BAS returns the amount of sales for the three month period representing the quarter, the amount of GST that was

collected in respect of those sales so as to work out how much GST had to be remitted to the Commissioner. You understood that didn't you?---That was a pretty long - - -

Sorry is something amusing about that is there?---No, it's nothing amusing. It's just that - - -

Well let me break it down for you Ms Lazarus?---Well, it's no disrespect to you.

10

You don't have to apologise. Let me just ask the question - - -?---It's just that it's just so long I've lost you the first half.

All right. Let's just get through it, please?---You do have to realise you're dealing with someone who is quite dyslexic.

You've been doing pretty well so far?---I have been. You have very much adapted to my environment.

20

Righto. Well, that's good to hear. Now let's just deal with GST, please. You understood didn't you that when you submitted an invoice for payment it included an amount for goods and services plus GST?---Yes.

And you understand that GST is 10 per cent of the cost as identified in the tax invoice?---Yes, that's correct.

All right. And you understood that when the invoice is paid what the company receives is not only the amount of the invoice but the amount of the GST?---In, yes, that's correct.

30

And so at the end of each quarter one has to calculate the amount of GST that the company has received on its sales. That's so isn't it?---The total amount plus the GST in total.

Yes?---So, yes, yes. Now I understand. Yes.

And then one looks to try and find what are called input tax credits to set off against the GST that's collected to work out the amount of GST that's to be paid to the Commissioner. That's so isn't it?---Sorry, can you repeat the first part?

40

In order to work out what GST had to be remitted to the Commissioner - - - ?---Yes.

THE COMMISSIONER: The tax Commissioner.

MR ALEXIS: The tax Commissioner, thank you. One has to identify the amount of the GST that's collected?---Yes.

And the amount of GST that's paid in relation to expenses?---Yes, that's correct. Yes.

And then that amount is what you've got to pay to the Commissioner of Taxation every quarter?---The total amount of GST that's outstanding.

Yes?---That's earned, yes, that's correct. Yes.

10 Right. And what Mr Young did, your accountant was to work out the amount of GST that had to be remitted to the Commissioner of Taxation every quarter?---Yes, that's correct. Yes.

Now what I want to suggest to you is that you have not remitted the GST earned by your two companies in relation to the sales that you allege were made through the invoices to Royal Women's Hospital and to the Royal North Shore Hospital?---That's incorrect.

20 And just so we're clear, the GST or the BAS statements have been prepared by Mr Young?---Yes.

Were signed by you?---Yes.

Were lodged at the tax office?---That's correct.

But the GST that was to be paid has not been paid?---That's incorrect. Part of it has been paid, again on a payment plan since I haven't been able to be employed since over two years now.

30 So are you agreeing with me that the GST was not paid immediately following the quarter in which the GST was collected? You've come to some deferment arrangement with the Commissioner of Taxation in respect of that tax have you?---That's incorrect. When I did have employment it was paid very regularly. It's when I had no employment and it started falling back a little bit because of living expenses and then I had to come to an agreement with the taxation office.

40 But when you were collecting the GST when the invoices to the hospitals were paid - - -?---Yes.

- - - you understood that that GST wasn't the company's money, it was being held by the company to be paid back to the tax office didn't you?
---Yes, that's correct. It was - - -

And the fact of the matter is that at the end of each quarter it wasn't paid?
---I think I was a quarter behind, roughly. Again, I can't be exact, but there is portions of it paid and since I have no job it did fall behind. But you'll have more - - -

THE COMMISSIONER: You didn't fall behind because you didn't have a job. You actually collected the money from, from the GST from the hospitals and your duty was to pay the money that the hospitals had paid the GST to the tax office?---Yes.

You collected for yourself instead?---To utilise for living, for daily living, yes.

10 MR ALEXIS: Well, just have a look at the financial statements for the Lazarus Family Trust for the 2009 year?---Ah hmm.

There's a copy for the Commissioner. And just so that we understand the scheme of things - - -?---Ah hmm.

- - - and these were financial statements for Medical and Clinical Informatics Consultants as trustee. You see that on the second page of the document?---Yes, that's correct.

20 And prepared by Mr Young on your instructions. Is that so?---Yes, that's correct.

And so if you look at the balance sheet which you'll see on page 3 of the financial statements, you'll see that as at 30 June, 2009, do you have page 3?---Yes, yes, I'm looking at it.

And do you see there's a heading under total assets called Current Liabilities?---(NO AUDIBLE REPLY)

30 Have you located Current Liabilities?---Yes, I have. Yes.

And underneath that just passing over the hire purchase liability in relation to the BMW, it says provision for GST. Do you see that?---Yes, that's correct.

And so what that means is that as at 30 June, 2009 there was \$12,561 in outstanding GST that hadn't been paid?---That's correct. Yes.

40 And that reflects about a \$120,000 worth of sales doesn't it?---Yes, that's correct.

And just while we're in this financial statement, no I'm sorry, I'll come back to, come back to that. Could I show you the financial statements for Complete Health and Medicine for 2009?---Yes.

And similarly these were prepared by your accountant on your instructions. Is that so?---That's correct. Yes.

And if you look at the balance sheet on page 2 of the financial statements, again under the heading Current Liabilities there's \$14,133 worth of GST that hadn't been paid?---Yes, that's correct.

And that's why it's provided for as a liability?---Yes, that's correct.

And that reflects about \$140,000 worth of sales?---That's correct. Yes.

10 So that illustrates quite clearly doesn't it that in relation to your two companies as at the end of the June 2009 financial year - - -?---Ah hmm.

- - - there was outstanding GST of approximately 26, \$27,000?---That's correct. And part of that has been paid already. And the rest is in payment plan.

But what that tells the Commissioner is that in relation to GST that was collected, it wasn't paid to the tax office at the end of each quarter that it was collected. That's so isn't it?---Yes, it fell behind. That's correct.

20 THE COMMISSIONER: Mr Alexis, I think we'll go on, it's quarter to 5.00 now.

MR ALEXIS: Thank you, Commissioner. Can I tender as a separate exhibit the financial statements for each of those two entities, perhaps starting with the Lazarus Family Trust.

THE COMMISSIONER: Yes, the Lazarus Family Trust financial statements 30 June, 2009 is Exhibit 110.

30

#EXHIBIT 110 - THE LAZARUS FAMILY TRUST FINANCIAL STATEMENTS FOR YEAR ENDING 30 JUNE 2009

THE COMMISSIONER: And the Complete Health and Medicine Pty Limited financial statements for 30 June, 2009 is Exhibit 111.

40 **#EXHIBIT 111 - COMPLETE HEALTH AND MEDICINE PTY LTD FINANCIAL STATEMENTS FOR YEAR ENDING 30 JUNE 2009**

MR ALEXIS: Thank you, Commissioner. Now Ms Lazarus, I also want to suggest to you that in order to fund all of your financial commitments the other thing that you did was deliberately understate the amount of sales that occurred in respect of a particular quarter by each of your companies so that the amount of GST collected was similarly understated?---That's not correct. I, I put in tax, I claimed every cent that was earned. If there was, if

something was left behind that wouldn't have been intentionally and it wouldn't be a significant amount. Not to the best of my knowledge. Every cent was claimed.

THE COMMISSIONER: You mean disclosed?---Shown in the tax application.

MR ALEXIS: Well let me show you these documents, Ms Lazarus. And can you - - -?---Did I leave something behind?

10

Commissioner, I only want to deal with two of these just for illustration purposes. Now do you see that I've provided to you the declaration that you signed in support of the business activity statement for the Lazarus Family Trust? You see your signature on page 5, October, 2008?---That's correct. Yes.

And do you see just above that it covers the period 1 July, 2008 to 30 September, 2008?---Okay, so where is that? Okay, yes, I found it.

20

Right. And just so that we're clear that's the period during which you had submitted invoices to the Royal Hospital for Women and have procured payment from that hospital?---For the work that was provided that's correct, I was paid for that.

And do you see just over the page, about half way down there's a reference to GST on sales, \$9,818?---Yes, that's correct.

And over the page do you see there's a reference to total sales identified as G1 for \$108,000?---That's correct.

30

And you see the reference, does the amount shown include GST and the Y there indicates, yes it does. Do you see that?---Sorry where does it say does that amount - - -

Immediately underneath total sales G1?---Oh, yes, yes. Yes.

All right. So when you came to sign this declaration you understood that you were declaring to the Commissioner of Taxation that in respect of \$108,000 worth of sales during that quarter - - -?---Yes.

40

- - - you'd collected \$9,818 worth of GST. Do you see that?---Yes, I guess, that, that's an automated system so there's the calculation there, that's not me or Steve, the accountant. That's an automatic system, so (not transcribable).

Well if you look at the accountants worksheet, which is the very last page, you'll see that his worksheet indicates the sales for July, August, September, zero for July, but you've got August and you've September?---Ah hmm.

And you'll see that his work is there total up the \$108,000 in respect of sales and GST. Do you see that?---Yes, that's correct.

And that was based on information you provided your accountant?---That's correct.

10 In other words you didn't provide the accountant with the bank statements for the company?---No, no, no. I just provided the sheets like that.

All right?---And, yeah.

Now can I show you the bank statements for Medical and Clinical Informatics for that quarter?---Thank you.

Now and if you can just turn to the very last page of a series of bank statements. You'll see that there's written in handwriting SESIASA payments \$148,500. Do you see that?---That's correct.

20 And you can take that writing as mine?---Yes.

Indicating the total of what it is that I'm about to show you?---Yes.

So if you come back to the first page you'll see that on 22 July there was a payment of 49,500. Do you see that? From the Area Health Service. 22 July?---Yes, that's correct.

30 And if you turn the page you'll see on 11 August you received a cheque for \$16,500 which related to one of your invoices?---Yes, that's correct.

You then see on 13 August another Area Health Service payment of \$33,000?---Yes.

14 August another Area Health Service payment for \$33,000?---Yes.

And then over the page 29 September, \$16,500 on that date?---That's correct.

40 And you can accept from me my arithmetic is \$148,500?---Yes, I'll accept - -

Now it follows of course when you look at the sales received as paid into the company's bank account and compare it to the BAS return for that quarter, it's clear isn't it that the amount of sales was understated by \$40,500?---That would be an oversight by me, yes, that's correct.

And how should we understand an oversight when you provided the accountant with - - ?---Ah hmm.

- - - sales of \$108,000 when it's obvious from the exercise I've just done - -
-?---Oh on, definitely.

- - - that the bank statement showed receipts of 148,500?---I think the July,
I've missed out the July and that would, that would total to that amount
rather than zero.

10 It doesn't actually. I've checked that?---It doesn't. Okay. Well it's just - - -

So how else could you explain the understatement of the sales and therefore
the understatement of the GST?---I think I would have left out an invoice in
terms of paperwork and hence didn't put it through into the spreadsheet that
I've created at the back. It's an oversight. I'm sure it can be fixed or
amended in some way.

20 See what I want to suggest to you is that by this stage you were doing what
you could to service your commitments and one way to do it was to
understate the sales and therefore understate your GST so as to be able to
meet your monthly commitments as we've discussed them?---That would be
incorrect.

I see. See what I want to suggest to you is that you quite deliberately didn't
tell your accountant what the actual sales were for that quarter and you
deliberately understated the information you gave him so as to deliberately
understate the sales of GST on your BAS return?---That's completely
incorrect, because I did my best to make sure every dollar was claimed.

30 Can I tender the BAS statement for the Lazarus Family Trust for the quarter
ending 30 September, 2008 and also the accompanying bank statements for
that company for that period, Commissioner.

THE COMMISSIONER: I don't seem to have the BAS statement. I've got,
yes, that's the, that's the bundle that starts declaration for the activity
statement?

MR ALEXIS: Correct, yes.

40 THE COMMISSIONER: Yes. The bundle of documents including the
BAS statements for the Lazarus Family Trust, does this have a date?

MR ALEXIS: It's - - -

THE COMMISSIONER: Well I think it would be better, you're not
tendering any more are you, are you during - - -

MR ALEXIS: There's one other matter I want to deal with.

THE COMMISSIONER: (not transcribable).

MR ALEXIS: It's signed on - - -

THE COMMISSIONER: For the period 30 September?

MR ALEXIS: Yes, 1 July, 2008 to 30 September, 2008 and declared by Ms Lazarus on 5 October, 2008

10 THE COMMISSIONER: Yes. For the period from 1 July, 2008 to 30 September, 2008, that is Exhibit 112.

#EXHIBIT 112 - BUNDLE OF DOCUMENTS INCLUDING BAS STATEMENTS FOR LAZARUS FAMILY TRUST FROM 1 JULY 2008 – 30 SEPTEMBER 2008

20 THE COMMISSIONER: And Exhibit 113 is the bank statement for Medical and Clinical Informatics commencing 5 July, 2009.

#EXHIBIT 113 - BANK STATEMENTS FOR MEDICAL AND CLINICAL INFORMATICS COMMENCING WITH STATEMENT PERIOD 05/07/2008-4/08/2008

30 MR ALEXIS: Thank you, Commissioner. Now Ms Lazarus, can I just deal with your other company by way of conclusion this afternoon and provide you with a copy of the BAS statement for Complete Health and Medicine for the quarter ending 31 March, 2009?---Ah hmm.

Now, Ms Lazarus, we should understand shouldn't we that this was the first quarter that this company traded?---Yes, that's correct.

And the sales referred to in this document relate to the invoices that were submitted and paid by the Royal North Shore Hospital?---I'm sorry, I don't have documentation to confirm or deny that.

40 Well, you know, don't you, that the company Complete and Medicine was incorporated in December 2008 and did not submit any invoices to the Royal Hospital for Women don't you?---To the best of my knowledge I don't think so.

So you're agreeing with me?

THE COMMISSIONER: You're not agreeing?---I don't have documentation to confirm or deny that, I'm sorry.

MR ALEXIS: We'll come to some detail in a moment?---Perhaps if you (not transcribable) - - -

In any event just look at the BAS statement and do you see that it's another financial document prepared by your accountant for the period that I've indicated 1 January, 2009 to 31 March, 2009?---That's correct.

10 And if you turn over the page you'll see again GST on sales has been declared at \$9,272, do you see that?---Yes, that's correct.

And then over the page, page 2 of the return total sales including GST of \$102,000, do you see that?---Yes, that's correct.

And so - - -?---Did I leave out a - - -

Do you see on the next page there's again reference to total sales \$102,000?---Yes.

20 And the next page is a handwritten page - - -?---That's correct.

- - - which I can tell you was produced as part of this BAS return by your accountant?---That's correct. That's my handwriting.

Your handwriting?---That's correct.

30 So we should understand that the way in which you communicated sales by Complete Health and Medicine was to provide this document to your accountant?---Yes, to the best of my knowledge and the best of my ability to put that through.

All right. Well, what information informed the income amount that you've written there?---Roughly based on the receipts that arrived at the postal address but I can see that I should've looked at the bank statements instead.

40 Well, just so it's plain to you, do you see on the next page which is the last page of the document a printout from the tax office, tax agent portal which indicates that this BAS statement, and I'm showing you this because this copy hasn't been signed by you but it's clear, isn't it, that this BAS statement was lodged with the Commissioner of Taxation because the tax office portal indicates sales for that quarter of \$102,000 and GST on sales of \$9,272?---That's correct.

Right. Now, can I show you in similar fashion to what I drew attention to earlier the bank statement - - -?---Bank statement.

- - - for Complete Health and Medicine for that quarter?---Thank you.

Now, if you look at the bank statement you'll see that the first transaction on the account occurred on 30 January, 2009 when \$105,600 was deposited from the NSAHS, do you see that?---Yes, that's correct.

And that relates to the Area Health Service with respect to the Royal North Shore Hospital doesn't it?---Yes.

10 And if you look further down the page you'll see on 6 March the further deposit from that entity of \$82,500, do you see that? It's the third entry from the bottom, 6 March, 2009?---Yes, yes.

And before coming back to my title if you look on the second page which takes us up to the end of the first quarter of 2009 you'll see that there are no further deposits?---Yes, that's correct.

20 So we should understand that the first quarter of this company's trading involved payments totalling \$188,100 derived from the two deposits that I've just taken you to on 30 January and 6 March, do you see that?---Yes, that's correct. I've completely missed March and somehow instead of writing in January I've written in October and December for the \$102,000. So that I've made a complete error in terms of amounts and months as well.

30 Well, you've not only forgotten, if it be the case, the second payment of nearly \$83,000 but you've also understated the first payment. Now, if that be the case that you forgot the second one how did you misstate the first? ---I've misstated the month as well so Lord knows what I was, what I was viewing because that, the payment, that first payment for 105 is actually in January and I've stated that 102 was for October and December so I've completely mistaken and completely written the wrong thing.

Well, you're referring, I think, to the period at the top - - -?---That's correct.

- - - of the handwritten document but, Ms Lazarus, it's obvious isn't it that the BAS return that you were attending to for the first quarter of Complete Health and Medicine's trading activity was the first three months of the 2009 calendar year?---That would be incorrect because I would've addressed that. Again, that's something that I have completely gotten wrong.

40 But, Ms Lazarus, there's no completely getting wrong about it. Look at the bank statement?---I didn't look at the bank statement.

This bank statement tells us that it was open on 8 January, 2009, do you see that?---Yes, that's correct.

And the company only was incorporated in December 2008 wasn't it? ---That's correct.

And it was obvious to you when you were preparing the document that you sent to your accountant that you were addressing yourself to the first quarter of the company's trading activity?---No, that's incorrect.

Well, how can that be incorrect?

THE COMMISSIONER: It says it on the document, the handwritten document?---Exactly.

10 January to March 2009?---No, it says October, December 2008, the first half, that's where I've made the error.

MR ALEXIS: Well, the Commissioner is looking further down the page, you see. You've written actually the words "Jan-Mar 2009"?---That's correct and I've written nothing there so therefore I have mistaken the quarterly, the quarters of the year as well. I've addressed October and December.

20 THE COMMISSIONER: I just don't know how you could've - - -?---I'm dyslexic, I can't see numbers and words.

It's got nothing to do with being dyslexic. The company wasn't trading in - - -?---I know but I must've been addressing others as well and I've made the error.

MR ALEXIS: How could you tell your accountant that Complete Health and Medicine for the first quarter of its trading activity earned sales of \$102,000 when the first quarter of its trading was in the first three months of 2009 - - -?---That's correct.

30 - - - and according to the bank statement it actually derived \$188,000? ---That's correct according to my handwriting I've gotten the months wrong, I've gotten the year wrong, I've gotten the amount wrong, I've gotten absolutely everything wrong for this BAS - - -

Ms Lazarus, this is not an insignificant - - -?--- - - - and that's an error made on my part.

40 This is no insignificant matter because the bank, the BAS statement understated the sales by \$86,100 didn't it?---And for the incorrect quarter as well an error - - -

Could you attend to my question please. The BAS statement understated its total sales by \$86,100 didn't it?---That's correct and the quarter as well.

And it also therefore understated the amount of GST to be remitted to the Australian Tax Office didn't it?---In my mind I must've been putting a different order in. Sorry.

With all respect to you, Ms Lazarus, it would be impossible for you to think that - - -?---That's not correct.

- - - you could've been dealing with any other quarter because the quarter immediately prior to the one that you're accounting for a company didn't exist and that must've been obvious to you when you provided this information to your accountant so that he, on your instructions, could prepare the BAS return?---If it was obvious I wouldn't have written October and December, '08. I'm sorry, it wasn't obvious and hence it's in black and white in front of you

My suggestion to you is that you quite deliberately understated the sales so as to understate the GST liability because you needed every cent you could to meet your commitments as they were occurring during this period?
---That's very incorrect.

If that's a convenient time, Commissioner.

20 THE COMMISSIONER: Yes. We'll adjourn tomorrow to 10 o'clock.

THE WITNESS WITHDREW [4.59]

AT 4.59 THE MATTER WAS ADJOURNED ACCORDINGLY [4.59]