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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CHARITY

Reference: Operation E10/0035

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON THURSDAY 24 FEBRUARY 2011

AT 9.40AM

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

MR ALEXIS: Commissioner, before we resume with Mr Neiron could I indicate that after the conclusion of the hearing yesterday I came into possession of some documents that Mr Neiron had brought with him which hadn't previously been seen by the Commission. Although I hesitate to interrupt my learned friend's cross-examination it's appropriate that I very briefly deal with these documents. Copies of course had been made available to counsel for the parties appearing before you.

THE COMMISSIONER: I take it you have no objection (not transcribable).

10

MS STITT: No, Mr Commissioner, no objection, the documents have just been handed to me as you walked through the door, I haven't even had a chance to read them but I've got no objection, we need to get this witness away.

MR ALEXIS: Thank you, Commissioner.

MR ALEXIS: Mr Neiron, can I show you please a document with a copy for you, Commissioner. And could you tell us firstly what this document is?

THE COMMISSIONER: Which one (not transcribable).

10 MR ALEXIS: It's the one that has adjacent to the word "datum 5/13/08", do you have that?---5 it's mean May.

All right. Thank you?---13 is the 13 of the day of the May and the year is 2008.

Thank you. And this appears to be an email that you sent, is that so?---Yes.

20 And have you, can you tell us how you came to produce this document on this piece of paper?---That is actually the, that's, this document, this, I, I wrote this email to, to Sandra to, to understand what, what she achieve and because we work on documentation so we need a document there before we, whatever we approve, whatever we proceed with.

So this is a printout of an email that you sent to Ms Lazarus?---Yes.

And we should understand the date of transmission as 13 May, 2008?---Yes.

30 And was this an email that you made available to Ms Daly sitting next to me following your arrival yesterday?---Yes. The system working in ours, in our company the system work when I send email or I receive email to Sydvet that is other two people receive copy of the email and I during my staying my Germany I requested the people that is, who search any email that's I send and they send to me and then they give me the copy and say O.K., that is the one we found out. So they found few more, few more and that is the one of them.

Now, can I ask you to look at number 7 as identified in that email and do you see there's a reference to the cost of the cervix cancer, do you see that?---Yes.

40 Now, are you able to tell us whether in response to this email you received anything from Ms Lazarus?---I, unfortunately we can't found any email in this regard with the price but I have the price verbally.

All right.?---Then we received the price from, I think we receive the price from the, from the hospital which is mentioned, it was before 73,000 and something and then it reached 75,000 for the whole lot, for the whole trial.

Could I show you Exhibit 1 that we went to yesterday?---That is, actually I think it is regarding to - - -

Let's just go to the document please. And could you turn in Exhibit 1 to page 93 firstly?---Yeah.

Page93, Mr Neiron?---Yes.

10 And we went to this yesterday, I won't go over what we dealt with yesterday but what should we understand in terms of the receipt of this letter that you told us about yesterday and your sending of this email?---Yes.

What can you tell us about the receipt of the letter that we see at page 93 and your sending of this email to Ms Lazarus?

MR STITT: Well, can he tell us whether he did receive it?

MR ALEXIS: Well, he did yesterday.

20 THE WITNESS: I receive it, yes, I think it was, I, I mean I can't remember if this is exactly this one or, yes, that's what I receive.

MR ALEXIS: All right. Thank you. Commissioner, I tender the email of 13 May, 2008 from Mr Neiron to Ms Lazarus.

THE COMMISSIONER: The copy of the email from Mr Neiron to Ms Lazarus on 13 May, 2008 is Exhibit 47.

30 **#EXHIBIT 47 - EMAIL FROM MR NEIRON TO MS LAZARUS
DATED 13 MAY 2008**

MR ALEXIS: Thank you. Mr Neiron, can I show you another document. I'm sorry, Commissioner, a copy for you. And firstly, do you see the handwritten reference at the top of the page?---Yes.

Is that your writing?---Yeah, June 2008.

40 And did you put that on before you gave this email to Ms Daly yesterday? ---Yes.

And - - -?---I just explain because the 6, the months in Germany come first and then the day.

Yes, so we should - - -?---According to Australia first is the day and then the month.

So we should understand that the email was sent by you to Ms Lazarus on 30 June, 2008 at about 4.14am, is that so?---Yes.

And if you turn three pages in you'll see there seems to be a further email and should we understand that you sent that email also on 30 June, 2008 but at 5.53am?---Yes.

Do you recall getting a response to either of these emails from Ms Lazarus?
---Sorry.

10

Do you getting a response to either of these two emails from Ms Lazarus?
---Yes, there was email to me, she say you already have some like hiccups or something like that, please ignore this, ignore this letter, I will fix the problem.

I see?---Something like that, I can't really remember exactly the words.

All right. Yes, I tender the two emails from Mr Neiron to Ms Lazarus sent on 30 June, 2008.

20

THE COMMISSIONER: The, the email from Mr Neiron to Ms Lazarus of 30 June, 2008 marked as 4:14:07am is Exhibit 48.

**#EXHIBIT 48 - EMAIL FROM MR NEIRON TO MS LAZARUS
DATED 3 JUNE 2008 MARKED 4:07AM**

THE COMMISSIONER: The email from Mr Neiron to Ms Sandra Lazarus of the same date marked 5:53:39am is Exhibit 49.

30

**#EXHIBIT 49 - EMAIL FROM MR NEIRON TO MS LAZARUS
DATED 3 JUNE 2008 MARKED 5:53AM**

MR ALEXIS: Thank you, Commissioner, and apologies again to my learned friend for the interruption.

40 THE COMMISSIONER: Mr Stitt, are you ready to proceed?

MR STITT: I am, Mr Commissioner, but can I make it clear that I am not at the moment in a position to deal with either Exhibit 47 or 48 and I'd like to preserve my position about that. I don't know what it actually will involve but I just am simply taken absolutely by surprise and if I could do that then I'll proceed with the other matters.

THE COMMISSIONER: It's entirely up to you if you want to have a short adjournment now or have one - - -

MR STITT: No, no, I want to proceed, I don't want to delay.

Mr Neiron, you said in your evidence yesterday that Sydvet Pty Limited was a cash box, do you remember giving that evidence?---Yes.

10 And you said that as a cash box Sydvet sought moneys from private investors?---No, I haven't say that. The money is come (not transcribable)

Well, just stop, please listen. Do you say that the Sydvet had money from private investors or not?---No.

Would you be so kind as to look at paragraph 6 of your statement, isn't that exactly what you said in the second line?---(NO AUDIBLE REPLY)

Do you have your statement?---No.

20 It's Exhibit 44. Might Mr Neiron be shown a copy so he's at no disadvantage?---Which page.

Would you look at paragraph 6, the phrase you use there was that it was a company that hold large sums of money from private investors, is that statement true or not true?---That's true.

Well, when I suggested - - -?---(not transcribable) investors.

30 Please listen to me, please listen to me?---Okay.

Is it true that Sydvet received money from private investors?---Yes. I haven't (not transcribable)

And please listen to me, please listen to me. Mr Neiron, do you understand I want to finish this cross examination and would you please listen to my questions. It's true is it not that Sydvet sought funds from private investors as venture capital?---No.

40 And it's true is it not that Sydvet received funds from private investors as venture capital?

THE COMMISSIONER: What to when it started?

MR STITT: Well no, during its operation?---I'm, I'm sorry, I, I don't understand really your question.

Well let me put it again?---For us company, let me explain what I - - -

No, no, I'll put the question again?---Okay.

The company sought money from private investors to be invested by Sydvet did it not?---When?

During its operation in Australia.

THE COMMISSIONER: Throughout its operation in Australia?

10 MR STITT: Yes, throughout its operation in Australia?---I, I talk about Sydvet GaMBH which is a German company.

No, but please I'm asking you about the private investors. I'm not asking you about anything else. Would you please answer my question?---I don't understand which company you're talking about.

THE COMMISSIONER: Sydvet Pty Limited?---No.

20 That's what paragraph 6 of your statement says, Mr Neiron, the second sentence in paragraph 6. It says that Sydvet is a company that holds large sums of monies from private investors. That's the Australian company? ---From the parent company Sydvet (not transcribable) it's mean what I try to explain here, the money they invest is in Sydvet - - -

GMBH?--- - - - GMBH and the money that is Sydvet Australia is receive from the German company which have private investors and the company shareholders.

30 MR STITT: But I'm asking you about the private investors. You sought venture - - -?---Private investor is German.

Please listen to me. You sought venture capital from private investors in Australia did you not?

THE COMMISSIONER: So you - - -?---No, I don't have venture capital.

MR STITT: With Sydvet?---I'm sorry, I can't see this words and I don't, the Sydvet Pty Ltd in Australia don't have any investors at all in Australia.

40 Let me suggest to you that you did receive money on behalf of investors from Australia?---Let me tell you that is Sydvet Pty Ltd never receive money from investors. Maybe receive loan, but not investors.

Loans?---Big different. So please rephrase the question for me.

Well is this the position that money did pass from Australian investors and you say into Sydvet in the form of loans? Is that what you're saying?---No. I say loan. Loan you can go to anyone to ask for loan. Loan it's mean that

you have to return, investor is not. Investor have the benefit from the company.

Well just so I'm clear about what you are telling this Commission, is it true that Sydvet Pty Limited received money from venture capitalists as loans or as a loan? Is that what you're telling this Commission?---No.

10 Well what is it that you're telling - - -?---Sydvet Pty Ltd receive loan, not venture capital. Loan, loan, purely loan, on agreement.

From whom did such loans emanate? From whom did they come?---The loan come from Vern Pleiksna.

The Western Australian gentleman?---Yes.

20 And you raised capital amongst Western Australian people did you not, including Vern Pleiksna?---Sydvet don't raise any cent from anyone as venture capital or invest in company. Sydvet has received loan from loan, purely loan on term and condition and payment of interest for Vern Pleiksna.

And was it important in order to obtain such loan to indicate that Sydvet was a viable company?---That is your opinion.

Was it important, was it important that Sydvet be displayed or indicated as a viable company?---What is mean viable?

30 As a company, going concern, that it was, that it was financially able, it was financially sound?---Sydvet has given loan to Medex for over \$2 million - - -

But that's not the - - -?--- - - - for purchasing product, one minute, and the company they give over \$2 million loan for purchasing product is not viable.

THE COMMISSIONER: Is not viable?---Is not a going concern, concern is going bankrupt. I'm sorry, I don't understand the language, the words if it's like that.

40 This is cultural difference, Mr Stitt?

MR STITT: It may be, your Honour, but I would like to - - -

THE COMMISSIONER: I think that what Mr Neiron is saying is that a company that is able to lend \$2 million is a viable company. Is that what you're saying?---Yes, it's a reliable company, sure. Viable, sorry, I can't hear very well.

MR STITT: Sydvat you say lent, lent money to Medex, Medex Screen?
---Yes.

And did Medex Screen also seek funds from investors in Australia?
---Medex Australia, yes, possibly.

Well, you know that don't you?---No, I haven't received any, I just heard about but I never receive anythings in this regard.

10 THE COMMISSIONER: Are you talking about, which Medex - - -?---So what is the relation?

I think it's important to identify the Medex that Mr Neiron is concerned with and the other Medex.

MR STITT: You know the company Medex Screen (AustralAsia)?---Yes.

That was the company that was involved in the clinical testing, was it not?
---Yes.

20

That was the company that also needed funds for venture capital, did it not?
---Possibly.

Well, you knew that didn't you?---It's possibly, that's is one of the condition of the company to, to, to run.

But that was - - -?---The company receive all the time money from Sydvat and Sydvat paid all the bills for the rent and then whatever and for purchasing the goods including computer and paperwork and pay for whatever they need, yes.

30

And you knew that it was necessary to indicate that these clinical trials were going ahead as a part of the corporate activity of Sydvat and Medex Screen (AustralAsia).

THE COMMISSIONER: Indicated to whom, Mr Stitt?

MR STITT: To, I'll rephrase.

40 You knew that it was important to indicate to investors that Sydvat and Medex Screen were, were profitable companies?---Medex Screen don't have the money to invest or to pay or to sponsor clinical trials. Therefore all the clinical trial had been sponsor by Sydvat and the first clinical trial they did in Nepean Hospital as well so yes, and the company don't have the money on the spot so they receive the money for as loan from Vern on condition and, and terms so it's nothing to do how the company is run. It is - - -

Well, just a moment, just a moment?---It is a loan and nothing wrong with that.

Well, whether there's anything wrong with it I'm seeking to explore with you the source of moneys, you see, the money trail, do you understand that?
---No, I don't understand.

10 You don't understand that. Well, let me suggest to you that - - -?---But the money (not transcribable) from anyone - - -

Please, please let me finish?---Yes.

Let me suggest to you that there were investors in Western Australia who were putting money into Medex Screen (AustralAsia)?---Investors in, investor in where?

20 From Western Australia that were putting money into Medex Screen (AustralAsia)?---According to my knowledge I don't have any idea with that (not transcribable) Vern used to be the one who runned it. I don't have any knowledge.

And those investments were - - -?---One minute.

Please listen to me. Those investments from the Western Australian people were paid to Sydvvet, isn't that right?---I don't know any investor from Western Australia they put a cent in Sydvvet, that's not right.

30 Well, weren't, weren't you seeking capital in the first part of 2008, in the first half of 2008?---(NO AUDIBLE REPLY)

Weren't you seeking capital from these investors in Western Australia in the first part of 2008?---Which company?

Money was paid to Sydvvet for Medex Screen (AustralAsia)?---Medex Screen (AustralAsia) never pay money or get money to Sydvvet. Its return loan to, to, for the, Sydvvet had give loan to Medex and Medex return the loan.

40 THE COMMISSIONER: Mr Neiron, the question is - - -?---I don't understand the question.

The question is, I think, it's been put to you that investors invest in Australia put money into - - -?---Sydvvet.

- - - Medex, Medex?

MR STITT: Or Sydvvet.

THE COMMISSIONER: Medex or Sydvvet in the first part of 2008?---With regard to Sydvvet no investment been put in Sydvvet.

MR STITT: But you told us that - - -?---With regard to Medex, I don't have any record.

Well what were the loans that you were just telling his Honour about?---In my opinion loan is not investment. Investment is not a loan. In my opinion. Maybe I'm wrong or maybe my English is incorrect.

10

But you knew did you not that money was coming for these clinical trials which Sandra Lazarus was to conduct on behalf of the company from the investors in Western Australia?---Again - - -

You knew the source of the money did you not?---I know the source of the money come as loan and please, don't say investment.

THE COMMISSIONER: All right. (not transcribable)?---It's not. Investment is different story.

20

MR STITT: You knew that the money was coming from Western Australia didn't you?---Yes.

And you knew - - -?---(not transcribable)

Please, you knew that the money was for the purpose of conducting clinical trials which related to the Medex device?---No.

30

And you knew that it was necessary for clinical trials to be conducted so that the Medex device could be marketed ultimately in Australia and New Zealand?---In Australia, yes.

Would you look please at the letter of 14 May, 2008 which is attached to your statement. It's a letter signed by you addressed on the Sydvvet letterhead to, it's page 95, Mr Commissioner?---Page 95.

It's an annexure to Exhibit 44?---To Professor Neville Hacker?

40

Yes, that's the letter I want to ask you some questions about. Now this is a letter which you have sworn that you signed?---Ah hmm.

And may we take it that you signed it on the date that it bears, 14 May, 2008?---Ah hmm.

Is that correct?---Possibly.

Well is it or is it not correct that you signed it on that date?---I, I say the truth is I have some, I have something that is, some of the letters that is - - -

No, I'm asking you about - - -?--- - - - (not transcribable) to me. Please I'd like to finish.

No, no, I'm asking you about this letter?---Not my signature, it was signature transfer.

Please - - -?---I say possibly, it's possible.

10 You have sworn in your statement that you signed this letter. Is that now not your evidence?---That is my evidence. One minute. I think I have something very similar - - -

No, no, please, I'm asking you about the letter to Professor Neville Hacker. You have sworn in your evidence that you signed that letter?---Yes.

THE COMMISSIONER: It might be better if you show him that?

MR STITT: I'm sorry?

20

THE COMMISSIONER: You can just show him that (not transcribable) This is the letter that you - - -

MR STITT: He said - - -

THE COMMISSIONER: - - - (not transcribable) - - -?---Yes.

Admitted to have signed?---If it's the letter that I have in my statement, that is my letter that I sign.

30

But there are other letters where you query the signature but not this one? ---Yes.

MR STITT: Correct.

THE COMMISSIONER: Understand?---Okay. All right. All right.

MR STITT: I'm sorry. Now would you look at that letter?---Ah hmm.

40 You addressed it to Professor Neville Hacker at the Royal Hospital for Women?---Ah hmm.

And this letter was written by you for a specific purpose was it not?---Yes.

Would you look at the first opening line, "We are pleased to congratulate on your successful research grants application."?---Ah hmm.

You knew when you wrote that that neither Professor Hacker nor the Royal Hospital for Women had made any application for a research grant had it?
---No. I - - -

And you knew - - -?--- - - - (not transcribable) for Sandra Lazarus and I believe her that is she has been successful but I never receive any copy of that so I (not transcribable) on her - - -

10 No, just a minute?--- - - - I have (not transcribable).

You have, please listen?---Sorry.

Please listen to me. You never ever had any research grant application submitted to Sydvat did you?---Never.

20 That statement is simply not true is it that you had received a research grant application from either the hospital or the professor?---I never write to say I received. "We are pleased to (not transcribable) your successful research grant application."

Yes. But what you're - - -?---It doesn't say I - - -

Please listen to me. What you're suggesting there is that there's been a research grant application which you Sydvat have considered and granted and you're offering your congratulations on their successful application, isn't that what you're saying?---This letter has been written and signed - - -

30 No, please?--- - - - on this story that is we receive from Sandra Lazarus that is the professor has apply for the grant.

It's your - - -?---And with the grant it will be for the clinical trials for Medex.

THE COMMISSIONER: He is answering the questions.

MR STITT: It's your letter, you wrote it - - -

THE COMMISSIONER: Did you draft the letter, Mr Neiron?---Yes.

40 MR STITT: It's your fractured English isn't it?---Yes.

You drafted it?---Yes.

And what you were saying there was that you were congratulating the professor and the hospital because your company had granted their application, isn't that what you're saying?---No.

What are you saying?---On your success research grant application, your not mine. Not Sydvvet, your, your is you not me.

But you see - - -?---No, I see here, “We are pleased to congratulate on your successful.”

10 Mr Neiron, Mr Neiron, this letter is suggesting that the large Royal Hospital for Women has made an application to your little company for a research grant and that your company has approved the grant, that’s what the letter is saying isn’t it? And you’re congratulating them, that’s what you’re saying isn’t it?---That’s maybe what you understand, that’s not what you understand.

It’s what the letter says with respect to you, Mr Neiron. And let me suggest to you a reason why you were expressing the letter in such terms, this letter had a specific purpose didn’t it?---(NO AUDIBLE REPLY)

20 You had a specific purpose in writing this letter?---To conduct a clinical trial, yes.

What this letter was to be used for amongst other things was to show to investors?---Which investor?

The Western Australian investors?---Which, for which company?

You were - - -?---For Sydvvet? Do you like to tell me that the Sydvvet - - -

Mr Neiron, - - -?--- - - - as, as, as, as I has - - -

30 Mr Neiron, - - -?--- - - - used this letter for (not transcribable). Are you talking and you don’t, I don’t know what you try to reach.

Well, if you would stop talking and listen to my question you would find out what I’m trying to reach. I’m suggesting to you that this was a letter written for a particular purpose - - -?---(not transcribable).

- - - and let me suggest the purpose. The - - -

40 THE COMMISSIONER: You will get a full opportunity to answer.

MR STITT: The purpose of this letter was to condense, was to show to investors that your company was granting a research grant to the Royal Hospital for Women.

THE COMMISSIONER: Now you just have to answer yes or no, Mr Neiron.

THE WITNESS: Could you rephrase your question because I can't understand it.

THE COMMISSIONER: Mr Neiron, Mr Stitt is asking you, saying to you and he's asking you whether that is true whether this letter that you signed was written by you for a particular purpose, that purpose being so you could show the letter to investors in Western Australia to demonstrate to them that you have an arrangement with the Royal Hospital for Women and are going to carry out the medical, the Medex tests at the Royal Hospital for Women.
10 He's saying that is a purpose of this letter?---That's not the purpose.

MR STITT: But it is a purpose was it not?---What is a purpose?

THE COMMISSIONER: One purpose.

MR STITT: One of the purposes?---It's, which purpose? (not transcribable) the purpose.

His Honour has told you, Mr Neiron - - -
20

THE COMMISSIONER: I explained to you.

THE WITNESS: The purpose is to raise funds for the company, no.

THE COMMISSIONER: That's all we want to ask, just answer no?---The question was, I won't understand the question.

All right.

30 MR STITT: Do you have the letter in front of you?---Yes.

It goes on to say, "This research grant is for the Medex test cervical cancer research at the Royal Hospital for Women as stated in the application."
There's no doubt as to what you were referring is there?---Yes, there's no doubt, yes.

And that was the Medex test which Sandra Lazarus was to perform on behalf of - - -

40 THE COMMISSIONER: That's not what it says.

THE WITNESS: No.

THE COMMISSIONER: That's not correct, Mr Stitt. It says nothing about Ms Lazarus performing - - -?---Sandra - - -

Just be quiet, Mr Neiron, please.

MR STITT: Well, I'll rephrase it because it's tied two questions in one. At the time you wrote this letter, Mr Neiron, you knew that Sandra Lazarus was proposing to conduct tests using the Medex device on cervical, potentially cervical cancer patients?---So she expressed to me.

Well, that was your understanding at the time this letter was written by you, isn't that so?---Yes.

10 And that's what you meant when you said in the second sentence, "This research grant is for the Medex test cervical cancer research at the Royal Hospital for Women as stated in the application." That's what you were referring to wasn't it?---Yes.

Yes. And what you there said in the second paragraph you said, "As currently agreed the initial grant amount" et cetera. Who was the agreement with?---I don't know but Sandra told me, Sandra said the agreement is because of the clinical trial will be 75,000, she say that that's the agreement, okay, I accept it.

20 But you, I suggest, didn't have any current agreement with anybody at the Royal Hospital for Women did you?---That's why I ask (not transcribable) email to her that is I need agreement and she hasn't forward it to me at that time.

30 But you have written this letter on the basis that there is an agreement and that it relates to an amount of \$75,000?---I written this letter on the agreement that I understood that Sandra have and Sandra has explained to me she will give me the agreement. So she say, I don't have it with me, or something like that, I will forward to you, I have the agreement. What, that's it. So I trust her and I write this letter.

And where did the figure of \$75,000 come from?---I receive it from Sandra and according to that I wrote 75,000.

You see, I suggest to you that this letter is quite misleading in terms when you wrote it. It's quite misleading.

THE COMMISSIONER: In what respect?

40 THE WITNESS: I - - -

THE COMMISSIONER: Just a minute. Before you put that or in putting that you have to explain what respect, Mr Stitt, otherwise it's not fair.

MR STITT: Your Honour, I'm trying to be fair.

THE COMMISSIONER: (not transcribable).

MR ALEXIS: Commissioner, can I add misleading to whom because there's been a suggestion about investors and I think it ought to be made quite - - -

THE COMMISSIONER: We haven't heard who these investors are and it's not been put to anyone before.

10 MR STITT: The letter, I suggest, is quite misleading because it's suggests that the hospital had made an application for a research grant which was not true, that it suggests that there was an agreement between Sydvet and the hospital which was not true - - -

THE COMMISSIONER: Mr Stitt, I don't think that's fair. I mean, I'm not saying that that's not the case but we have spent a long time on this and Mr Neiron has made it clear that whatever he wrote here on his version is what he learnt from Sandra Lazarus and he trusted her and believed her.

MR STITT: Your Honour, that may or may not - - -

20 THE COMMISSIONER: No, that's either true or not true.

MR STITT: But it may or may not be so, your Honour but it doesn't alter the fact that, of the status of this letter, the status of this document.

THE COMMISSIONER: I don't understand that because if, if, if that's what Mr Neiron genuinely believed then why is the letter misleading?

30 MR STITT: Well, your Honour, that's the argument that's about to be elevated into the High Court, as to whether it's an objective test or a subjective test and Mr Forrest has an interest in that I understand.

THE COMMISSIONER: He may have but - - -

MR STITT: But, but - - -

THE COMMISSIONER: But I mean, these are, this is a matter of fact and we're testing credibility here.

40 MR STITT: Well, precisely, it is all about credibility.

THE COMMISSIONER: But he's, you're saying it's misleading and he's saying I trust Sandra Lazarus and he has said it several times, I don't know where we're going on this.

MR STITT: Your Honour, the - - -

THE COMMISSIONER: Unless you say to him you should have known that Sandra Lazarus was not telling you the truth then you knew that it was misleading but that of course is not your case.

MR STITT: No, no, of course it's not.

THE COMMISSIONER: So he is, so that's why I'm not, I don't understand the point of further flogging this horse.

10 MR STITT: Well, your Honour, I'm not wanting to flog horses but I do see this as an important question because it bears upon his credibility?

THE COMMISSIONER: Well, ask the question, put the question again then, bearing in mind our debate.

MR STITT: I'm sorry?

THE COMMISSIONER: Bearing in mind our debate.

20 MR STITT: Well, I am bearing that in mind and I'm trying to phrase something which will not - - -

THE COMMISSIONER: Well, you understand what I'm saying about this?

MR STITT: I do, I do.

Mr Neiron, if this letter was shown to an investor it would convey would it not the following propositions: one - - -?---I thought - - -

30 One - - -

THE COMMISSIONER: Just a minute. Just listen, this is a hypothetical question?---(not transcribable)

It's a hypothetical question based on the proposition that this letter was shown to investors in, in Medex?---Anywhere, yes, okay.

Yes, okay. You don't have to agree with that proposition because that's not the question. The question is coming - - -?---Oh, I, I - - -

40

- - - on the basis of this hypothetical statement, do you understand that?
---Yes.

All right.

MR STITT: If this letter was shown to an investor it would be misleading in the following respects because it would convey the, I withdraw the question. It would, if this letter was shown to an investor it would be

misleading because it would indicate that the hospital had made a research grant application to your company, which it hadn't. Secondly, it would convey that there was an agreement between Sydvet and the hospital when there wasn't and it would convey that the amount that was involved was \$75,000. Do you agree with that?

10 THE COMMISSIONER: Mr Stitt, look, I'm sorry to interrupt, I, but I think with the best, in the light of the history of the, this particular questioning it would be much more useful if the question was broken up into three different, the three different propositions were put separately?

MR STITT: I'll do that. They letter - - -

20 THE COMMISSIONER: Sorry, I also got, you see, if you're putting that something is misleading you have to at least put I think that it's, the witness knows that it's not true and that's already been put to him and he's denied that so it means that anything, once you put to him that it's misleading and he denies, he says that he believed Sandra Lazarus then how can he answer the question?

MR STITT: Well, your Honour - - -

THE COMMISSIONER: Other than just saying - - -

MR STITT: Well, your Honour seems to have made an assessment that when he says that, that his denials that they are acceptable.

30 THE COMMISSIONER: No, no, not at all. I certainly haven't. I made an assessment that this is what he is saying and he's certainly open to you to question him on that as much as you like but, I mean, what you are doing is you are taking the next stage based on the proposition that what he said is not true and all we're going to get from him is another denial, we know that and I'm just trying to stop that, to try and shorten it.

MR STITT: What attempts did you make before you wrote this letter to satisfy yourself about the facts in it?---Nothing. I simply trust Sandra and I understood - - -

40 Well, I understand - - -?--- - - - what she did in, in other hospital.

THE COMMISSIONER: Just answer the question. You said you, you asked - - -?---No, I haven't did anythings.

You just trusted - - -?---I just trust Sandra.

Right.

MR STITT: And did you trust her on the basis of her prior performance with other hospitals?---Yes.

Did you trust her because she had performed satisfactorily in respect of the other hospitals to your understanding as at 14 May, 2008?---I can't say I trust her in a 100 per cent because she hasn't provide me the all document but on the, on part of the document she provide me at the time or before that time I trust her, really blindly.

10 Did you, what documents did you have before you about the Royal Hospital for Women when you wrote this letter of 14 May, 2008?---None.

Well, what documents were you referring to in the answer that you just gave to his Honour?---Fairfield Hospital and the St Vincent Hospital.

What documents did you have?---I have the ATRC or something like that from the government that is she been, apply for the clinical trial, I have the NEAF, I have the MSS and then I have the, the letters from the doctors and from the account which is letter I found that is not, that is, is not real
20 document, that I trust, when someone give me a, an official letter on, on, on letterhead I trust.

What document are you referring to on letterhead?---The account, the, the tax, the, the, what's called - - -

THE COMMISSIONER: Are you talking about the - - -?---The letter that I receive from Sandra from the Fairfield Hospitals and from the, the, from the St Vincent Hospital.

30 The letter that's, the letter attached to your statement, the two letters?---Yes.

Yes, those are the letters, the two identical letters, Mr Stitt?---Yes, that's it.

The, the two virtually identical - - -?---Yeah, that's the letter from 16 May, 2008 about the, how the funds being administrated and the letter from 6 June that this fulfils Sandra Lazarus' (not transcribable) is not paid by St Vincent Hospital, that's what I trust.

MR STITT: Mr Neiron - - -?---And I trust this letter - - -

40 Mr - - -?--- - - - for I trust Sandra.

Mr Neiron, the letter is dated 14 May, the letters that you're referring to are dated after that date so you couldn't have relied on those letters, could you? Please look at them. They are dated after 14 May?---13 May, 2008. I have a letter from Gynaecological Cancer Centre, on that letter I trust and that is (not transcribable) me one day after so that on letterhead.

THE COMMISSIONER: Which is the letter of 13 May, Mr Neiron?

MR ALEXIS: Page Commissioner.

THE COMMISSIONER: Right?---And then the next one is also the 13th, to whom it may concern with Medex cervical cancer clinical trial and that's not the letter that (not transcribable) as well, I can give you other earlier.

MR STITT: The letters of 16 May we can disregard can we as being part of
10 - - -?---I don't disregard anything that's come on letterhead - - -

Please listen to me?--- - - - of some, of some company.

THE COMMISSIONER: Just a moment.

MR STITT: Mr Neiron - - -

THE COMMISSIONER: Mr Neiron, don't get so excited. Just try and be
20 cool and just wait for the question. It will really move on much more quickly if you do that.

MR STITT: Do you agree, Mr Neiron, that the letters dated 16 May could not have had any influence on your decision or understanding when you wrote the letter of 14 May? Do you agree with that proposition?---Yes.

So we can disregard any letters dated after 14 May as being relevant to your belief or understanding when you wrote the letter of 14 May. Is that true?

THE COMMISSIONER: Well that must obviously be correct, Mr Neiron.
30

MR STITT: You wouldn't know, your Honour?---Could you rephrase this question, please?

Yes.

THE COMMISSIONER: Mr Neiron, you're not listening to the question. You're busy looking at the papers and really, just forget about what the point of the question is and what's come before, just put all your energy and intellect into answering the question alone. And put blinkers on and answer
40 the question. It will make it much easier for you and for everyone else. Really, it's, it's a technique?---I, I wish that's will be happen after we shafted so badly and - - -

Just a minute, just - - -?--- - - -I'm really lose my temper with it.

All right. Well you, this is not a place to lose your temper and I will not allow it. You will get into trouble. So just please, now we are taking much longer and we're trying to do you a favour to get you on the plane this

afternoon. Now I can only do that if you stay cool, listen to the question and answer it. Mr Stitt, I apologise, but I have forgotten the question you were asking.

MR STITT: No, your Honour, you don't have to apologise to me. Mr Neiron, letters dated after 14 May, 2008 obviously had no role to play in your state of understanding or belief when you wrote the letter of 14 May. Isn't that, isn't that correct?---Correct.

10 So that so far as your understanding or belief being based on letters as concerned we can ignore any letters dated after 14 May. Isn't that so?
---Yes.

Now having written that letter of 14 May to Professor Neville Hacker, you say that shortly thereafter you wrote another letter to the Royal Hospital for Women?---I can't, which letter you talking about?

20 Well this is the letter that you've never produced any copy of and it's never been produced by the hospital. But you say you wrote a letter terminating -
--?---Yes.

Now that's a most unusual thing that you haven't got a copy of it isn't it?
---Unfortunately the all letters been with Vern Pleiksna which he destroyed everything.

Yes, but - - -?---However - - -

Please listen to me?---However - - -

30 Please - - ?--- - - - at that - - -

- - -Vern Pleiksna - - -?--- - - - at that moment, at that moment - - -

Please - - -?- - - some people try to find this copy of this letter.

Please listen to me.

THE COMMISSIONER: He's trying to explain, Mr Stitt.

40 MR STITT: Now Vern Pleiksna had nothing to do with Sydvet did he? He was to do with Medex Test. Sydvet was your company?---It's true - - -

Yes?--- - - - but all the, all the equipment and everything that is, was, it was in Sydvet office. Medex operate from Sydvet office. And Sydvet has paid all the or sponsor all the operation of Medex. When we have, when I close the office in, in Perth - - -

Mr Neiron - - -?---So Mr Vern, Vern Pleiksna has received all included all from Sydvvet to store in his storage. Now that's happen because I am not here all the time and I been unable to fly especially to (not transcribable) the Sydvvet. So he did a favour to the Sydvvet to store all Sydvvet document and everything, yes. That's why I don't have now the document. However, but we try to get this document.

10 But it hasn't, please listen, please to me. But it hasn't been produced by the hospital either. So that I'm suggesting to you that you didn't write such a letter at all?---I can't tell you what the hospital provide this evidence court, whatever they call it. I don't know.

THE COMMISSIONER: Mr Neiron - - -?---I can tell you what I, I wrote and I can tell you that I don't have it this moment in my hand, that letter.

To what hospital did you write this letter?---I wrote it to the professor not to the hospital.

20 To, to professor - - -?---Professor, Professor - - -
- - -Hacker?---Yeah, Hacker.

And where did you get his address? Did get given the address at the hospital?---No. I haven't got address from hospital. Unfortunately even not from Sandra. I search it by the internet. And I got address by the internet. So I'm not sure that there hasn't been a record letter, it was just a letter.

30 What did the letter say?---The letter say it is unfortunate we are (not transcribable) to the financial changing, that's is why not interest any more to, to do the clinical trial.

MR STITT: When did you write that letter?---I can't remember exactly the date.

40 THE COMMISSIONER: What month?---I can't remember. I know it is after that is we been, after we receive email or letter from the hospitals that they (not transcribable) all story with, with the clinical trial, then I wrote the letter because that is show me something is going really, really very bad with Sandra.

Are you talking about the letters of 16 May, the two letters?---The letters that I receive, we receive from the hospitals.

Yes?---Yes.

The 16 May letters?---Yes.

Are you sure?---I'm not sure about the date, I'm not sure.

Well I just want to know what letters they were. Just, the two letters are attached to your statement, the one, the ones that set out the, the ones where you say you found them and found out that the people didn't exist. Is it those letters or other letters?---Sorry, I'm not - - -

Can you, attached to your statement - - -?---Yes.

10 - - - just after the cheques. Do you see the cheques?---Yes, I see the cheques, yes.

And would you just go on and then there is a letter to Sydvet dated 16 May. I'm asking you did you write to them after you received the letter that you're being shown now. Remember you got, you got this letter of 16 May from - - -?---Yes, Sandra.

- - - Sandra, signed by Peter Williams?---Yes.

20 You see, just a minute, the one that's signed by Peter Williams?---Yes.

And you got another letter from St Vincent's in similar terms?---Yes.

How long after you received these letters did you write the letter to Professor Hacker that we haven't got?---Approximately two to three months.

Thank you.

30 MR STITT: Two to three months?---Yes.

THE COMMISSIONER: Why did you take so long?---Because after with the Sydvet then the company we ask Sandra some question and we haven't receive any reply. And the reply was unsatisfaction. So we ask Sandra, we try, we try to force her by sending email and call her and no, no response from Sandra, then the company decided I have to fly to Australia, to Sydney. So it take some time.

40 MR STITT: Mr Neiron - - -?---So after, and so I went to check with Strathfield Hospital and St Vincent, which is taking time. I have to give report back to my, to the company and then we decide that is happen, that this (not transcribable) take maybe four months.

THE COMMISSIONER: All right. Thank you.

THE WITNESS: I cannot remember exactly.

MR STITT: Mr Neiron, you told us yesterday that the statement which you gave to the investigating officers from ICAC was truthful, accurate and

complete. Nowhere in that statement is there any mention at all of this letter that you've now been talking about for the last fifteen minutes. Why is there no reference in your statement to such an important document?---I thought it is not important document at the time, that's once. Second, because I simply don't remember that, that it was forgotten. I, I - - -

Mr Neiron - - -?--- - - - got the problem only with one, with two clinical trial, actually three clinical trial which one never happen.

10 Mr Neiron, Mr Neiron, the arrangement which was to be put in place with the Royal Hospital for Women about the payment of money was set out in your letter of 14 May was it not?---Yes.

And that was an arrangement under which you were saying to the hospital that you would pay money into their bank account for the purpose of this test, clinical testing?---Subject yes, subject to the agreement.

And you - - -?---(not transcribable).

20 And you knew that that money was to be paid into a trust account operated by the hospital didn't you?---Yes.

And you understand that a trust account is an account which is controlled by signatories, people who can sign?---No, I don't know how the trust account work here, I know trust account is belong to the hospital and the hospital have the right people to look after that, that's what I know.

But you also knew that the money was - - -?---(not transcribable) the hospital but - - -

30 Please listen to me. You also knew that Sandra Lazarus was not going to operate on that trust account didn't you?

THE COMMISSIONER: Operate on it, you mean - - -

MR STITT: Well, have access to it.

THE WITNESS: You try, what you try to tell me.

40 THE COMMISSIONER: Shush please.

MR STITT: I'll rephrase the question if your Honour thinks it's not. You knew that Sandra Lazarus would not be able to draw money from that trust account?

THE COMMISSIONER: Personally.

MR STITT: Personally?---Sure.

And you - - -?---(not transcribable) the hospital.

THE COMMISSIONER: Just answer the question.

MR STITT: And you understood that it was a bank account under the control of the officers of the hospital?---Sure.

10 And are you saying that you wrote a letter some months later to the hospital saying that you were withdrawing any financial support for these tests?
---Yes.

But at that time you knew that you had not in truth paid any money into the trust account?---Sure. I withdraw my interest the sponsor medical trial.

20 Please, please listen to me. So that between 14 May, 2008 when this letter was written by you to the hospital until some months later when you say you wrote another letter you knew that the hospital was operating on the basis that there was to be money provided by Sydvet for these tests?
---Definitely not.

30 What else did you want the hospital to think?---The hospital can't operate unless all the document in place. And all document wasn't in place, I don't believe, yes, I don't, I haven't received the document so because we haven't received the document definitely we don't give any funds to anyone. All right. That's one. And the other things when the, when we send, if we send any money to hospital we will ask the hospital to confirm they receive any fund from us and that you have as experience from the other company. We send them letter or email and they reply to us, they receive the money. So the hospital hasn't been request at any time in any case to confirm they receive any cent from us. And they hasn't confirm it because they never receive maybe because we haven't sent.

Mr Neiron, the fact is that at no time was there ever any money provided by Sydvet or anybody else to the Royal Hospital for Women for these clinical trials was there?---Definitely no money been provide to them.

40 Did you tell Sandra Lazarus that no money had been provided?---We have explained - - -

Did you tell - - -?---We have explained to Sandra many times, we have told her many times and we have assure her unless we receive all proper document as required no cent will be released.

How did you convey that to her, in writing?---In, in, mostly verbal and mostly writing which is, mostly we left a lot of messages on her phone.

Where is the writing that you refer to?---I unfortunately don't have this writing at this, we can't find them, we have to ask, you have to ask Vern Pleiksna where did he put the letter.

No, no, I'm asking you, where is the document that you say you wrote to her telling her - - -?---(not transcribable).

Listen to me?---(not transcribable).

10 Listen to me. Where is the document that you say you wrote to her telling her that no money was in fact paid to the hospital?---I don't know.

THE COMMISSIONER: I don't think that that's what he says. I mean, as I understand your evidence you did not write to her saying no money has been paid to the hospital you wrote to her to say - - -?---No - - -

Just a minute. That you wrote to her to say that no money will be paid until certain formalities have been complied with including the provision of certain documents, is that right?---Yes.

20

And did, I also understood you earlier to say that that was in the contract. Was that in the contract or not?---In the agreement between Medex and Sandra that is say that all payment will be provide after she submit and bring evidence and letters from the proposed hospital.

MR STITT: Mr Neiron, would you look please at your statement Exhibit 44 and the attachment which you have put with the statement. It's an email to you from Sandra Lazarus about the money and it's dated 17 June.

30 THE COMMISSIONER: Where is that, Mr Stitt?

MR STITT: It's in the - - -

THE COMMISSIONER: I must apologise for this not being numbered.

MR STITT: Have you got the document, Mr Neiron?---You're talking about.

40 It's an email to you from Sandra Lazarus?---Yes.

And you will see that it's dated Tuesday, 17 June, 2008. You see the date? ---Yes.

Shortly after the letter that I've been asking you questions about that you sent to the hospital, the Royal Women's Hospital. Do you see the date? --- (NO AUDIBLE REPLY)

Do you see the - - -?---17 of June, 2008, that's what you're talking about?

Yes. Do you see that?---Yes.

This is an email that you received from Sandra Lazarus?---Yes.

And she is there telling you that she was enclosing the last outstanding document for the trial. Do you see that?---(NO AUDIBLE REPLY)

10 Do you see that? It's in the second line, the last outstanding document for the trial. Do you see that?---Yes.

And then she goes on to say, "Can you please confirm that the required funds will be transferred to the given bank details in two weeks as outlined by you in our conversation so I can tell the hospital." That's what she's saying?---That's what she - - -

20 Now please listen to me. There must've been a conversation between you and Sandra at or about the time of 17 June on the question of the transfer of the funds, is that correct?---Possibly.

Possibly. What's your memory?---(NO AUDIBLE REPLY)

What's your memory?---Possibly that we have some conversation, I don't know the detail of the conversation.

30 Well, let me suggest to you that the detail of the conversation is clearly indicated in this email, namely, that you were discussing whether there were outstanding documents which were required for the trial. Does that refresh your recollection?---Let me suggest to you - - -

Does that refresh your - - -?--- - - - (not transcribable) try to understand what she tried to put in.

Please, Mr Neiron?---It doesn't mean that - - -

THE COMMISSIONER: Answer the question, Mr Neiron. Just answer the question. You were asked whether that refreshes your recollection?---No.

40 MR STITT: Did you have a conversation with Sandra Lazarus at or shortly before 17 June in which there was a discussion about the documents which were required for the trial?---Possibly.

Possibly. Did you have a discussion at about that time as to the outstanding documents which were required before the money was to be transferred to the bank account?---Possibly.

Possibly. Do you deny that the terms of Sandra Lazarus' email does not relate to the conversation that you had?---I'm not deny anything.

You don't deny anything. What, anything in your evidence at all, is that what you're saying?---No, I don't deny anything what you want, that she want, that's what she understood.

But I'm - - -?---It doesn't mean that's what I say.

10 Mr Neiron, where did you reply to that email? I withdraw that. Did you reply to that email?---I don't have the record, I try to search the record for that.

I see. I suppose this is again with Mr Pleiksna is it, is that one of those documents that you can't find?

MR ALEXIS: I object, I object.

THE WITNESS: I don't know which them you talk about but maybe you explain to me again.

20 THE COMMISSIONER: Just a moment?---I don't know - - -

Just a minute, Mr Neiron.

MR ALEXIS: May I remind my friend Exhibit 48 and 49 (not transcribable) tendered this morning but (not transcribable).

THE COMMISSIONER: Yes.

30 MR ALEXIS: The context - - -

MR STITT: But it doesn't, I'm told that the dates are wrong. But I don't want to delay this, I want to keep going.

THE COMMISSIONER: I'm sorry, the sotto voce comments from the bar table are not helpful.

40 MR STITT: Can I put the question again. The email of 17 June to you from Sandra Lazarus makes it perfectly plain that there was the last outstanding document required for the trial had been provided to you so she was asking that the funds be transferred to the bank account. Do you see that?---I see what you want, doesn't mean that what happened.

THE COMMISSIONER: That's all right. You've just been asked whether you see, you see it, your answer is yes, you see it.

MR STITT: Does that refresh your recollection about the conversation that you had with Sandra Lazarus?---No.

It doesn't help you to remember the topic that was being discussed?---I only remember to one topic where is the document, the official document, that's what I remember. I don't remember any other things.

THE COMMISSIONER: About this conversation?---Yes. I remember I ask all the time the proper and official document. That's what I ask all the time.

Mr Stitt, I'm going to adjourn for ten minutes.

10

MR STITT: If your Honour pleases.

SHORT ADJOURNMENT

[10.53am]

THE COMMISSIONER: Mr Stitt.

MR STITT: Thank you, Mr Commissioner. Mr Pleiksna, I'm sorry, Mr Neiron, you and Mr Pleiksna had a serious falling out in the middle of 2008 did you not?---Yes.

20

And that was a dispute over the operation of these companies and the Medex device being sold in Australia. I'm putting it in general terms, but that was the dispute was about, your commercial activities together. Isn't that so?---(not transcribable)

I'm sorry, I didn't hear your answer?---Sorry, I can't, I can't understand your question.

30

Well let me put it again. In, in mid 2008 you and Mr Pleiksna fell out over the business of these companies?---We have disagreement, yes.

But it was more than a disagreement. You had a serious falling out between the two of you did you not?---Yes.

And I don't want to go into the details of it but the effect of it was that he was suggesting to you that you hadn't treated him fairly?---Sorry? I can't understand the question.

40

THE COMMISSIONER: Did he say, did he complain in this dispute, we're not asking whether it's, whether what he said was true or not, but was his complaint that you hadn't treated him fairly?---That I treat him, Vern Pleiksna?

Yes?---Unfair?

That's what he complained?---Never.

What did he complain about?---He complain about the CFO and - - -

What's the CFO?---The guy who is charge of the company - - -

The Chief Financial Officer?---Yes.

Yes?---And he wrote me a letter - - -

10 All right. Was there any dispute about your interests in the company?
---Never.

It was about the running of the company your, the dispute?---He complain because I'm not all the time in the company and mostly I've overseas. But he hasn't, that hasn't been any the major problem. There wasn't any major problem with this - - -

20 Well what was the major problem?---The major problem that is he claim that is, and he wrote me a number of letters, confidential letters regarding the CFO of the company.

MR STITT: But part of the complaint about the running of the company was whether or not your company had an agreement from the Israel company. That was part of the dispute wasn't it?---Never.

30 And Moty Brill, who you told us yesterday you knew as the CEO of the Israel company asserted that there was no agreement between the Israel company and your company about franchising these devices?---Moty Brill - - -

Isn't that so?---No. Moty Brill being CEO of the company after we decide not to continue with Medex.

But the question - - -?---After we have a court case with them.

But the question of the rights to this device was part of the dispute you had with the Pleiksna's and the investors in Western Australia wasn't it?
---Never.

40 Mr Neiron, as at 30 June, 2008 Medex Screen (AustralAsia) closed its office in Sydney didn't it?---Sorry?

As at 30 June, 2008 Medex Screen (AustraAsia) closed its office in Sydney and it went into liquidation?---Never, Medex Screen (AustralAsia) never have office in New South Wales.

No, I'm sorry, it closed its office in Perth and went into liquidation. Isn't that - - -?---Never.

Are you saying not at all?---Never. Medex Screen, I pay the rent for the office for Medex Screen in, in Western, in Australia.

But the company - - -?---One minute - - -

The company ceased to trade?---The company ceased to trade only in 2009.

10 Well I'm suggesting to you that it was in the middle of 2008, as at - - -?---I suggest to you that is the Medex have a special shareholders meeting on 5 December, 2008 and is still not went to cease operation.

But - - -?---The cease operation was only on the year 2009.

But I'm suggesting to you that the reason that the money wasn't paid to the Royal Hospital for Women was because Medex Screen (AustralAsia) was no longer trading?---Is because Johel Neiron and Sydvet decide not to pay. Nothing to do with Medex Screen (AustralAsia).

20 And I'm suggesting to you that it had nothing to do with the role of Sandra Lazarus?---I suggest to you that it is all the facts and evidence that Sandra Lazarus hasn't provide us the proper document and hasn't give us the proper information. And lie to us with her own document. That was the reason.

Well, I understand you saying that but I'm putting to you that there was also another reason, that is - - -?---That is your idea, not mine.

30 You, do you disagree that Medex (AustralAsia), Medex Screen (AustralAsia) ceased business about the middle of 2008, I just want your answer on that?---No.

You don't agree?---I disagree because Medex Screen (AustralAsia) still operate today although on a quiet level but still operate today, only for the, the purpose of the court case with Vern Pleiksna. That's the reason why the company is still registered and in fact until today the company has been deregistered until today.

40 THE COMMISSIONER: Is, is the company, is the company would up, do you know what wound up means?---No, what it is? The company hasn't sold its own equipment, the equipment still exist.

Is the company - - -?---the company still have a office in - - -

Perth?---In West, in Perth, in, in, close to the city, I can't remember the - - -

West Perth?---No, in - - -

Subiaco?---In 121, 121, I will remember, 121 Bushmead Street in Hazelmere.

And does it have staff there?---They have staff there, they have a computer there, they have all the equipment there.

Is there a liquidator of this company?---Never.

10 Well, that's what's being put to you I think?---I never heard about it, I never signed of that, I never talk about it.

MR STITT: Well, I'm suggesting to you that you required Medex Screen (AustralAsia) to close its office and required it to cease operations from 30 June, 2008?---Never. I actually decide to stop to pay the rent, that Vern Pleiksna put us into debt and I stopped to pay the rent. I reached the agreement with the landlord, we evacuated the office, we give back the office, the goods being stored by Vern and we have to fight six months to receive all the company possession back to the company and the company still operate, still exist.

20

Well, whether it still exists, I'm suggesting to you that the reason - - -?
---Those - - -

THE COMMISSIONER: Just a minute.

MR STITT: I'm sorry, I'm suggesting to you that the reason that the money was not transferred to the Royal Hospital for Women for this clinical trial had nothing to do with Sandra Lazarus or her performance?---I definitely say it's not true, is definitely the money hasn't been provided to the hospital because of behaviour of, the behaviour of Sandra Lazarus.

30

Well, I think we've got an issue (not transcribable).

Well, your Honour, I have a document here that I wish to cross examination Mr, Mr Neiron on. It's one of these documents which has come into my possession from, not from our source but I can show it, it's Mr Neiron's own email and it absolutely contradicts what he's just been swearing to your Honour and I'd like to put it to him.

40 THE COMMISSIONER: Can you just explain to me where it comes from?

MR STITT: It comes I gather from the Pleiksna camp, your Honour, which we've only just been told he'll, he'll be called today at 2 o'clock.

THE COMMISSIONER: How did you get it? I'd like a full statement of how you got it and when please.

MR STITT: Well, can I do that when I get some proper instructions?---Yes.

MR ALEXIS: Can I just indicate, Commissioner, that what is apparent from the top of the email is that it was sent, assuming the detail to be correct, from David Pleiksna to John O'Shannessy who I understand to be the solicitor instructing our learned friends but the email's dated 11 February which I think is the Friday before the inquiry commenced on 14 February and it in turn seems to forward by way of attachment an email which on its face appears to be from Mr Neiron bearing dated 6 May, 2009, I just thought I ought to draw attention to the timing of the receipt of this email as I think is acknowledged, it hasn't been provided to us, I haven't seen it before and in terms of whether or not cross-examination on it ought to be permitted - - -

THE COMMISSIONER: Mr Stitt, I regard that as serious. I mean, this sounds, if, prima facie there seems to have been a deliberate retention of documents without revealing them to the Commission and then springing it on the Commission, springing it on the witness at the last moment. I mean - - -

20 MR STITT: Well, that's not my intention and these documents - - -

THE COMMISSIONER: I'm not suggesting it's your intention.

MR STITT: I'm just, I need to take instructions because the document was just put in my hand but, and I will advise your Honour - - -

THE COMMISSIONER: I find this particularly serious and I mean, I mean so serious that I would contemplate calling in the instructing solicitor.

30 MR STITT: Well, perhaps I could get some instructions but I don't want to delay this witness.

THE COMMISSIONER: I won't, I won't call him now but unless I'm satisfied that they're being bona fide here I will investigate the matter further.

MR STITT: Well, would it be convenient for - - -

40 THE COMMISSIONER: We'll adjourn for five minutes.

SHORT ADJOURNMENT

[11.16am]

MR STITT: Your Honour, I can deal with the circumstances under which this document came into possession if that's convenient.

THE COMMISSIONER: Yes, please.

MR STITT: The document was forwarded to my instructing solicitor by Mr O'Shannessy who is a solicitor and it was forwarded shortly after or on the date that it bears which is 11 February, 2011. Your Honour, no reference in any of the material at that stage to these matters was made by Mr Neiron. It was not regarded as being important. It was not regarded as being relevant because it wasn't a matter that had been raised at that stage in his evidence. And it only became relevant when I was putting to him the reason why the funds weren't transferred, because the company was closed down. Now
10 Your Honour recalls that I spent - - -

THE COMMISSIONER: I understand that.

MR STITT: And this is now a document which seems to fly directly in the face of what the witness has said in his evidence in the last - - -

THE COMMISSIONER: But if you were going to put that Mr Stitt, whatever is in that email, as I understand you would have been relevant to that, to what you are putting would it not?
20

MR STITT: Well, I hadn't seen the document until it was - - -

THE COMMISSIONER: I understand that - - -

MR STITT: - - - put in my hands, so that, but I accept responsibility for this.

THE COMMISSIONER: It doesn't - - -

30 MR STITT: But your Honour, this - - -

THE COMMISSIONER: All right. I'm, I'm interested in the truth not the, not the peripheral matters. Mr Alexis, do you have anything to say about it?

MR ALEXIS: Only this, Commissioner, just so that the position is appropriately balanced. The Commission should be aware that Mr Neiron's statement was served well before the commencement of the inquiry and served under cover of a letter the date of which is being turned up as I speak. But the statement was served because Mr Neiron was overseas and the request was made as to whether he was required for cross examination.
40 The response to that inquiry was in the affirmative. Mr Neiron's statement clearly puts forward the reasons why monies were not paid to support the trial at the Royal Hospital for Women and expressly refers to concerns, the detail of which was the subject of Mr Neiron's evidence yesterday. Principally of course, the two letters bearing the same date from Strathfield and St Vincent's Hospital and what that told him, the detail concerning inquiries and publishers and the like is also the subject of detail in the statement. So with all respect to our learned friends explanation, it is a little

difficult to accept that there was no prior warning or indication or notice that Mr Neiron's evidence would include the expression of concern about the performance of Ms Lazarus at or around May or June of 2008.

THE COMMISSIONER: Yes.

MR ALEXIS: Having said that, it's important in my submission that Mr Neiron is appropriately tested on his evidence and I don't wish to object to the course that our learned friend wishes to take. But I would suggest
10 before that is undertaken that some consideration be given to the date of the email and the suggestion that's been made in argument with you, Commissioner, as to its contradictory nature.

THE COMMISSIONER: I'm not sure if I understand that, Mr - - -

MR ALEXIS: Well our learned friend has said from the bar table that the content of this email contradicts the witness' evidence. I would simply draw attention to the date of the email and perhaps ask my learned friend to reflect on that before he takes that proposition any further.
20

THE COMMISSIONER: Yes, well I'm unable to comment on that - - -

MR ALEXIS: Of course.

THE COMMISSIONER: - - - because I haven't seen the email.

MR ALEXIS: I'm just indicating that to my learned friend through you, Commissioner.

30 THE COMMISSIONER: Yes.

MR STITT: Thank you. Mr Neiron's statement, just for completeness, Commissioner, was served on 4 February, 2011.

THE COMMISSIONER: Well, Mr Stitt, I'm, I will leave it for you to deal with as you wish. I must say, this is absolutely no reflection on you whatever, but I am not convinced that those instructing you have been candid in their approach to the Commission. (not transcribable)

40 MR STITT: Well that's not been my, that's not been my assessment of them in the limited assessment that I've - - -

THE COMMISSIONER: I'm talking about this letter.

MR STITT: Oh, I see. Well one way it can be dealt with and it seems to me to be patently unfair to Mr Neiron is that I don't ask him any questions about it and simply - - -

THE COMMISSIONER: I don't propose that.

MR STITT: - - - to tender the document at a later date. But that would seem to me to be procedurally unfair.

MR ALEXIS: Could I suggest, and I don't mean to interrupt my learned friend, but rather than speaking in riddles can I provide you, Commissioner, with the email. As I understand it, Dr Neiron doesn't have the email and could I just invite your attention to the date of the transmission of the email.
10 You'll see that under the line running across the page, and then in numbered paragraph 1 if you could look at the date referred to there and then look at the words that follow and that's really what I had in mind when I drew attention to the date and what was said to be the contradictory nature of the email.

THE COMMISSIONER: Mr Neiron, would you mind just leaving the hearing room for a moment, please?---Me?

Yes. I just want to talk to counsel while you're not here. Mr Alexis, I'm
20 afraid I still don't follow.

MR ALEXIS: I'm sorry. No doubt my learned friends point is that the email, assuming the date of transmission is accurate was said - - -

THE COMMISSIONER: The date of transmission being 11 February?

MR ALEXIS: No, no, no.

THE COMMISSIONER: 6 May.
30

MR ALEXIS: 6 May. And the, the proposition is whether or not Medex Screen (AustralAsia) was closed down on 30 June, 2008. The witness has rejected that suggestion. No doubt my learned friend is relying upon paragraph 1, perhaps there's other material, but it seems apparent to me at least that paragraph 1 may be contradictory, but the assumption in that contradiction is that the reference June 30th, is to June 30, 2008, not 2009. And my learned friend says it has to be, but if one looks at the words that follow, namely, I have forced Medex Screen (AustralAsia) to close its physical offices, one doesn't necessarily know whether its being put
40 prospectively or retrospectively. No doubt my learned friend's contention will be that it's recording what occurred retrospectively, but I'm not so sure that that's so having regard to the language and cultural and other issues that have plainly emerged from the examination this morning. So it's - - -

THE COMMISSIONER: Well that's a matter for Mr Neiron to deal with.

MR ALEXIS: Of course it is, of course it is, but I'm just drawing it to the Commissioner's attention because - - -

THE COMMISSIONER: Yes, very well. I understand now. All right. Can you recall, would you, would someone, would you recall Mr Neiron.

MR ALEXIS: Before (not transcribable) Commissioner, can I indicate that we've arranged for Dr Pavlakis to be here at noon. He has difficulties if we don't deal with him between 12.00 and 1.00.

10 THE COMMISSIONER: Mr Stitt, are you, does that represent a problem to you?

MR STITT: No.

THE COMMISSIONER: All right.

MR STITT: I'll, I'll meet my learned friend, I'm endeavouring to finish this witness as far as I can and - - -

20 THE COMMISSIONER: I know.

MR STITT: - - - I'm not being critical of him, but he does make it extremely difficult.

THE COMMISSIONER: I know Mr Stitt.

MR STITT: May I proceed?

30 THE COMMISSIONER: Yes, proceed. And I think that Mr Neiron needs a copy of this. Is there a copy for him?

MR STITT: Well just before he has it put in his hand - - -

THE COMMISSIONER: Just a moment.

MR STITT: Mr Neiron, you did carry out a number of major changes to the operations of Medex Screen (AustralAsia) after the date of the letter that you wrote to the Royal Women's Hospital, which was May, 2008. Isn't that so?---Sorry, I'm not with you. I don't understand what you're telling me.

40 THE COMMISSIONER: Can you put the question again, Mr Stitt.

MR STITT: You did make major changes to Medex Screen (AustralAsia) after the, after May, 2008.

THE COMMISSIONER: So it's to the nature of its business operations?

MR STITT: Yes, yes. Your Honour is correct?---I think that yes on
sometime in August, 2008 I make the first major changes or during, during
August 2008.

But those changes were wide-ranging were they not?---(not transcribable)

They covered a, they covered a number of, of matters in the operation of
Medex Screen (AustralAsia)?---I, I don't think so.

10 THE COMMISSIONER: We're talking about August - - -?---I think it was
only, only financial, financial disagreement with Vern Pleiksna and I decide
to do what I decide to do.

What date are you talking about, Mr Neiron?---It was some time in August
that I decide - - -

In what year?---2008.

20 Is that when you made some changes to the business operations?---Yes. I
decide to change to, to move the office to the private premises.

MR STITT: But the changes that you made were in 2008 to the Medex
Screen (AustralAsia) operations, were they not?---The change?

The changes that you made to Medex Screen (AustralAsia) were made in
2008?---In August 2008, yes.

30 THE COMMISSIONER: Did you ever make changes again or are these the
only changes you ever made?---I make more changes. I make all the time
changes according to the business, according to what I, what the company
need.

MR STITT: But on 30 June, 2008 you closed the physical offices of Medex
Screen (AustralAsia) and you've told us that they were in Perth, is that true,
that you closed - - -?---I can't remember, I can't remember this date that I
make the change. Maybe at that time I elaborate that, or discuss that I want
to make the change, the change I make in, during August 2008.

40 But that change included as you told us a while ago that you closed down
the office and you had some discussion with the landlord or whatever your
evidence was a few minutes ago?---I - - -

Is that what you did?---I moved the office to the different office.

And - - -?---From one area to another area, for one, to another zone.

And at the time that you did that did you also freeze the operations of
Medex Screen (AustralAsia)?---No. I haven't freezed. I slow down.

Well, did you reduce the operations Medex Screen (AustralAsia)?---Yes, I reduce.

And as part of that reduction did you decide not to go ahead with the, with the clinical trials at the Royal Hospital for Women?---No. The reason was absolutely different to stop the clinical trial.

10 THE COMMISSIONER: No, that's not the question, at least I don't think it is. I've got a question that, when did you decide to stop the clinical trials?
---After I realise - - -

No, when, what date?---Oh, what date? I can't remember.

What month?---I think it was some, some time on September or something like that, I can't remember.

That is - - -?---It was about - - -

20 Was that after you'd been, you had discussed this with your boss in, in Germany?---Yes, that is after we discover that the document that we receive from Sandra is, is not authentic.

And you had to - - -?---And then I have to talk with my bosses and then I, I stopped the clinical trial.

All right. Yes. Thank you, Mr Stitt.

30 MR STITT: The main reason for you carrying out those steps involving Medex Screen (AustralAsia) included the malfunction of the Medex units, did it not?---Okay, ah - - -

It's a very simple question?---No, no, it's not simple, it look like a very simple question but is not.

Well, I'm suggesting to you that one of the reasons which caused you to do what you did with Medex Screen (AustralAsia) was the malfunction of the Medex units?---Partly.

40 What was the malfunction of the Medex units that you're referring to?
---According to the company in Israel the unit supposed to give some information which information was, the unit was unable to give this information.

So that was a malfunction that you regarded as making the Medex units less valuable, is that correct?---That is correct.

And the malfunction of the units related to the units which were to be used in the trials at the Royal Hospital for Women and other places, is that correct?---That is partly correct because - - -

Partly correct?---Partly correct because the unit - - -

Well, let me, please - - -?---The clinical trial, the clinical trial that been proceeding in the other hospital in Strathfield and in St Vincent Hospitals, the concept was to know if the unit is exactly what the manufacturer claim.

10

So the clinical trials had a specific function or specific objection insofar as those trials at Strathfield and where did you say? Concord?

THE COMMISSIONER: Not Concord, St Vincent's?---St Vincent Hospital.

MR STITT: So they - - -?---Supposed to be Concord but never happen.

20

But they had a specific function, those trials and you say that function was to test the accuracy of the units, is that your evidence?---That's correct.

And is it your evidence that the units proved be unsatisfactory, is that your evidence?---No.

Well, was there - - -?---We haven't received the fact.

No, please - - -?---I can tell you but according to our - - -

30

Please?--- - - - to my understanding yes.

No, Mr Neiron.

THE COMMISSIONER: He said yes. According to my understanding, yes.

MR STITT: And the result of those trials you say led you to the view or to the opinion that the units had malfunctioned?---I haven't received the results so I can't tell you that. St Vincent Hospital said that it has never happened so I can't tell you something that never happened.

40

THE COMMISSIONER: And Strathfield?---St Vincent.

No, but I'm asking you about Strathfield?---In Strathfield the, the results wasn't, I mean, we receive results from (not transcribable) but Strathfield, Strathfield Hospital say that there is nothing.

What, that what's nothing?---They ignored the results.

They ignored the results?---We receive a document, results but Strathfield (not transcribable) say no.

No what?---They don't respect anything that's happened.

MR STITT: And that - - -?---They say it never happened.

But that's the - - -?---The problem is - - -

10 Mr Neiron - - -?--- - - - we don't have any facts on clinical trials so how I can say that is the purpose of the clinical trial being achieved.

THE COMMISSIONER: I don't understand then, Mr Neiron, how you can say that the unit was malfunctioning, if you don't have the results of the clinical trials on what basis do you say the unit is malfunctioning?

MR STITT: Precisely?---Well, I say the unit is malfunction according to the results that we have from a clinical trial that we have in Holland. I see that is the, the unit was malfunction according to the results that is we, I self
20 tested the machine and as I say before, I am not a doctor to give results but I am able to understand the different between the graph when you test the unit for the same person in three or four times at the same minute, in the same time. Let's say if you test the first - - -

THE COMMISSIONER: All right. Where did you do this testing?---In my office.

In, in Perth?---Yes.

30 So you said that you thought that it was malfunctioning because of results from Holland because - - -?---The, the clinical trial from Holland.

Yes, because of your own - - -?---My own testing.

Anything else?---Yes, we give it to the hospitals in, in Malaysia, Prince, I don't remember the name of the hospital in Kuala Lumpur, they have the same problem. We give it to some doctors in Singapore, the same problem, doctors in Italy, same problem so we have same results, that is the accuracy of the unit is incorrect.
40

And when did you discover this? When did you come to the, the conclusion that the unit was malfunctioning?---April 2009 and at that time we have to continue the agreement with the, with the company in Israel and I decide no, I don't want to do anything because I don't trust it.

Mr Stitt.

MR STITT: The malfunction - - -?---And that is when - - -

THE COMMISSIONER: Just a minute.

MR STITT: Please listen to me. The malfunction of the units included the fact that you couldn't get any satisfactory technical support from the Israel Medex company, isn't that so?---That as well, that's what I want just to (not transcribable) but you take me out of it.

10 But that was part of the problem created by the malfunction of the unit wasn't it?---No.

Wasn't it - - -?---Technical support, technical support - - -

Please?--- - - - was when the unit stopped to work.

20 But did you not have some problems with the Israel company Medex Israel about the malfunction and the fact that they wouldn't give you technical support, isn't that the truth?---That is a standout complication with every equipment in the world.

THE COMMISSIONER: The answer's yes then?---Yes.

MR STITT: And the fact that the Israel company wouldn't give you technical support was something that concerned you so far as these clinical trials were concerned, isn't that the truth?---No, because we haven't got results from clinical trial so I can't say that.

30 Well, I think that now is the time to show Mr Neiron his email, your Honour. May he be shown it please. Mr Neiron, would you be so kind as to look at this email, drop your eye to the bottom, it's actually from you, "Best regards, Johel", that's you isn't it?---Yeah.

Look, take your eye to the top. It comes from you on 5 June, 2009 does it not?

THE COMMISSIONER: I think you should explain how, the provenance of it, Mr Stitt.

40 MR STITT: Well, I will, your Honour, I just want to identify the document first so then, I'll then move to that if I may.

THE WITNESS: I thought that you talking about 2008 that 2009.

MR STITT: No, no, we'll get to that in a moment?---Okay.

THE COMMISSIONER: I think it's better, it's just fairer I think to start from, or just clearer if you start from the top of the document and explain what it is.

MR STITT: Would you look at the document please. It is an email from you - - -?---From Sheik Golan, he was the CEO of the Medex Israel.

If you look at it it's an email which you have sent to Moshe?

THE COMMISSIONER: Is that in Germany?

THE WITNESS: Moshe Golan.

10

THE COMMISSIONER: Is that in Germany?---No, it's from Israel.

So why - - -?---Moshe is like Moses.

So were you in Germany?---Yes.

So you sent this from Germany?---Yeah, I sent it to him.

And you were in Germany at the time?---Yes.

20

MR STITT: And it was dated 5 June, 2009 and sent at 9.42 - - -?---AM.

AM. Is that correct?---Yes.

And you were talking or sending an email to Moshe about the operation of the company in Australia were you not?---I say here that - - -

No, please can I - - -?--- - - - slow down our operation.

30

You were talking about the operation in Australia?---Yes.

And what you were there doing is setting out the reason why you were slowing down the Australian operation, isn't that so?---(NO AUDIBLE REPLY)

Please look at it?---I can read it. I like to read it.

Yes, please look at it.

40

THE COMMISSIONER: While Mr Neiron is reading this, Mr Alexis, how long will we be with the next witness?

MR ALEXIS: I would like to try and conclude him within the hour.

THE COMMISSIONER: You will take at least an hour?

MR ALEXIS: Perhaps not the full hour. Can I indicate that the scope of his evidence relates to signatures on non-order vouchers at the Royal North

Shore Hospital of which the Commission has already heard evidence from other witnesses giving their evidence on a similar topic.

THE COMMISSIONER: Yes. You'll have to stop at 12.00, Mr Stitt.

MR STITT: Have you read that?---No, I haven't finished.

THE COMMISSIONER: Sorry, Mr Alexis, I'm prepared to sit late after 1
10 o'clock. I don't know how the doctor feels about that if we start at say
12.15 and go on to 1.15 would that be in order or not?

MR ALEXIS: I'll just check with, that inquiry has been made,
Commissioner, and perhaps if I don't rise to my feet we can proceed on the
basis that a 12.15 start with Dr Pavlakis is - - -

MR STITT: Have you read the document, Mr Neiron?---Yes.

In that document you are setting out for Mr - - -?---Sheik Golan.

20 - - - Golan the major changes that you had made, is that correct?---Yes.

Was that information that he needed to know?---Sure.

And may we take it that the information that you were providing to him was
truthful?---That was what we wanted to do.

But it was truthful, you had no reason to lie to him did you?---No, no reason
to lie to anyone.

30 I'm asking you about this man. So you had no reason to lie to him did
you?---No, no reason to lie to him.

And what you did was that you set out quite carefully in this email the
reasons why you had done the actions which you had made?---Yes.

And you set out those reasons quite carefully didn't you?---I don't know if it
was carefully but it was honestly.

40 And accurate?---As much as I see in my eyes.

Yes. And you said that the main reason was the facts of decline of the
Australian clinical trials, that what you've said. Was that one of the
reasons?

THE COMMISSIONER: Reasons for what?

THE WITNESS: The main reason - - -

MR STITT: I'll start again?---That's what you (not transcribable).

No, let me be precise. The reason that you slowed down or changed the operating practice of Medex Screen (AustralAsia) was the decline of the Australian clinical trials, that was one of the reasons wasn't it?---Yes.

Another reason was the malfunction of the units, isn't that so?---Yes.

10 Another reason was the inability of Medex Israel to give technical support, is that accurate?---Yes.

And the other one was the conflict with Mr Pleiksna?---Yes.

Nowhere in that list of reasons do you make any reference to Sandra Lazarus or her activities do you?---I don't think that is I have to say that at all. Australian clinical trial I don't have to say the name of the doctors or the coordinators or the financial, nothing. I just give the name, the general name for that, a general title for that.

20 But what you were telling this inquiry and telling the Commissioner is that it was all Sandra Lazarus' fault that you didn't proceed with the trials - - -

THE COMMISSIONER: I don't think that's right.

THE WITNESS: And that was nearly a year before. That's a year after. This is in 2009, June 2009 and we talk in some time, let's say between May and December 2008.

30 MR STITT: Mr - - -?---So how you want me - - -

Mr Neiron?--- - - -to write a letter - - -

Mr Neiron, you're writing on 6 May, sorry, 5 June about events that had taken place on 30 June. You say, "I have forced Medex Screen (Australia) to close its physical offices" et cetera. You were talking about something that had happened on 30 June.

THE COMMISSIONER: 2008 you say.

40 MR STITT: Well, I'm just - - -

THE WITNESS: (not transcribable) 2008.

THE COMMISSIONER: Mr Stitt, you're dealing with a person who - this is not an English speaking person.

MR STITT: I understand that.

THE COMMISSIONER: And it's quite obvious from his language that his command of tenses and grammar is not the same as a person native-speaking of English. So in cross-examining him on this, in all fairness one has got to be very clear and full in the questions. You- - -

MR STITT: I understand that. I'm trying to be both, if I may say so, I'm trying to be precise and accurate.

10 THE COMMISSIONER: You are, Mr Stitt. And it's just on, it's just on this one. That's not a general comment at all. It's just on the last question because there is an issue which is, which Mr Alexis raised which is a genuine issue that has to be addressed.

MR STITT: Well, I'm suggesting to you, Mr Neiron, that there you were setting out the things that had happened?

THE COMMISSIONER: Do you understand that?

20 MR STITT: In paragraph 1 you were setting out the things which had already occurred?

THE COMMISSIONER: Do you understand what's being put to you, Mr Neiron?---I think (not transcribable) May or April- - -

No, no?---I haven't say the name of the year.

No, no?---So I can't say to you which year it- - -

30 You are not understanding the question and you, just, just let's, I mean, this is important so it needs a cool head. Okay. Now, just take a deep breath.

MR STITT: Now, Mr Neiron, so you are under no disadvantage, what I'm putting to you is that the things that you are saying in paragraph 1, look at paragraph 1, the things that you are saying in paragraph 1 are all things which have already happened. Are they not?---(NO AUDIBLE REPLY)

THE COMMISSIONER: That is, when you wrote the email?---When I write this email- - -

40 You see, Mr Neiron, Mr Stitt is saying to you, the email was sent on 5 June, 2009. You see that?---Yes.

And he is saying to you, is it not true that in paragraph 1 of the email you are describing things that have already happened?---Yes.

So by 5 June, you had already forced Medex Screen (Australasia) to close its physical offices et cetera. Is that right?---Yes.

So June 30, what date on 30 June are you talking about, what year are you talking about when you say 30 June. Are you able to remember this?---I, I remember that is 30 of June is the end, the end of the financial year of the company.

Yes?---I, that's why I remember. I can't say precisely that, but that's what I remember. And I remember when we sit and we talk about the financial situation of the company, yes, I decide at the time, so I decide it's when I force because I closed the company. What I mean, I don't give more
10 money. I don't give more money to the company and I force the company to close. Doesn't mean that is close on the same day. It's take time to close. So on the, on the meeting on 3 June I decide or I force the company will be closed. That's it. That is what I say here.

Mr Stitt, it's still not clear to me. Anyway, I leave that to you.

MR STITT: I'm not sure that I can, I mean, ultimately I think it's a question of submission as to what weight you give to this sort of evidence when it's perfectly clear that- - -
20

THE COMMISSIONER: Yes. All right. Well, then I'm going to try and clarify. We're only interested in establishing the truth, Mr Stitt.

MR STITT: Well, so am I.

THE COMMISSIONER: And I, and so I'm offering you the opportunity to
- - -

MR STITT: All right. Well, I'll take up the offer.
30

THE COMMISSIONER: But I have to, I have to say that if you don't, I will.

MR STITT: Well, I'll take up the offer, Your Honour, I'll do the best I can.

THE COMMISSIONER: Yeah.

MR STITT: Mr Neiron, as at 5 June, you had already a number of reasons why you were moving against Medex Screen (Australasia). You had a
40 number of reasons in your mind at that date. Did you not?---Yes, I have a number of reasons. A number of idea, yes.

But you call them reasons, I take it, because that was what they were, that it was the reason why you did something?---Ah hmm.

And you said in there the list of the reasons for your actions?---Yes.

And all of the reasons that you've listed for your actions are all things that had already happened, had already occurred. Isn't that so?---(NO AUDIBLE REPLY)

THE COMMISSIONER: They weren't going to happen in the future.

MR STITT: Yes.

THE COMMISSIONER: They had already occurred.

10

MR STITT: They weren't going to happen in the future?---On 6- - -

No, please, could you answer that question?---I can't answer the question because this answer, this part of one is split into two different time or three or four different time.

Oh, Mr- - -?---The first things, yes, on the meeting I forced the company to close.

20

THE COMMISSIONER: At the meeting? What meeting?---At the end of the year meeting in the company on the 30 June, 2008. In the office of the company, I forced the company to be closed. That's why I give time within three or four months, I want to close, I want to, to close the, to close the, the company office operation.

That was on 30 June, 2008?---8, yes.

And what, was there a, was there a meeting on that date?---Sorry?

30

Did you say there was a meeting on that- - -?---Meeting in between the, the, the company directors.

Yes. And what, and was, was there a resolution made?---Yes.

And what was the resolution?---The resolution is to accept what I say.

All right. Well, what did you say?---I say I want to close, to close the office ah, in ah, in ah, in, in ah, in, in ah, in, that office at that time.

40

And freeze its operations?---And slow down the operation, yes.

MR STITT: Yes?---Because I like to wait for, at that time I like to wait to see what is the results and what is coming out from the clinical trial. So we depend everything on the, the two clinical trials that we have.

THE COMMISSIONER: But, but that, one of the main reasons for that decision on 30 June, 2008, was that the, there had been a decline in the Australian clinical trials?---That was later on, not on the same day, and the

day that is I decide to slow down, to close the physical office and to freeze the operation, that was on 30, that was a decision that I made on 30 June, 2008. The other decision come later on during the time. That's why the letter's been written later on.

10 What other decision? What is the other decision?---The other decision being in ah, in ah, in a 5 December, 2008 and it was a decision that is we will not bring more director to the companies and we disagree with Vern Pleiksna system and that Vern Pleiksna have to return all the equipment in his possession back to the company.

All right. Thank you?---I don't have- - -

Mr Stitt, I now agree with you that it's a matter for submissions.

MR STITT: Thank you, Your Honour. I'm glad we've reached that point.

THE COMMISSIONER: Right.

20 MR STITT: I've been struggling to get there.

THE COMMISSIONER: Now, Mr Stitt, we can go to 12.15 as I understand.

MR STITT: Should I tender, has that been tendered, Your Honour? I'll tender it. I don't- - -

THE COMMISSIONER: Yes. The- - -

30 MR STITT: It's the email, Your Honour, of 5 June, 2009.

THE COMMISSIONER: Yes. The email sent on 11 February, 2011 by David Pleiksna forwarding an email sent by Mr Neiron on 6 May, 2009, is Exhibit 50.

#EXHIBIT 50 - EMAIL FORWARDED FROM MR O'SHANNASSY TO MR PLEIKSNA CONTAINING EMAIL FROM MR NEIRON DATED 6 MAY 2009

40

MR STITT: Sorry, 5th?

THE COMMISSIONER: 5 June. If I've said the opposite, it's 5 June.

MR STITT: Mr Neiron, the result, the consequence of your dispute with the Pleiksna's in Western Australia was that there was a complete rupture

between you and them about the business of these companies in Australia, was there not?---(NO AUDIBLE REPLY)

THE COMMISSIONER: A complete break.

MR STITT: A complete break?---(NO AUDIBLE REPLY)

And you've told us that. I don't want to delay over it. That's the truth, isn't it, there was a complete dispute?---Yes.

10

And I'm suggesting to you that you said to the Pleiksna's that you had the, you had the results of clinical trials of the Medex test device in Australia, you had that in your possession. Do you remember?---I remember that is I have called Vern Pleiksna and the others that is I have received a copy for the clinical trial from Sandra. I remember that very well.

Yes. And that was the truth, you had received it from Sandra?---I receive clinical trial results from Sandra, yes.

20

And that was using - - -?---(not transcribable) I receive a lot of document.

It may be, but that was, those results were her using the Medex test device was it not? That's what the results were?---That is the results what Sandra claim were, yes.

THE COMMISSIONER: From what, from what hospital?

MR STITT: Well, I'll get to that if I may, your Honour.

30

THE COMMISSIONER: All right.

THE WITNESS: Strathfield Hospital.

THE COMMISSIONER: All right.

THE WITNESS: Strathfield Hospital and then we have a suldi (as said) from St Vincent Hospital.

40

THE COMMISSIONER: A what? You had a what?---A suldi (as said).

A suldi (as said)?---Yeah.

What's that?---Opinion, like opinion.

MR STITT: So that came from St Vincent's Hospital and you had that as well?---That's came, I don't know if from the hospital, but that's came from Sandra Lazarus.

It came from Sandra as well as the results?---It's come from Sandra Lazarus. I don't know if that's the results or she create it, I don't know. I can't tell you.

But you had - - -?---I receive it from Sandra Lazarus.

Nevertheless you had it. That was in your possession?---Yes.

10 And do you remember that there was then a dispute about what should happen to those results which Sandra had produced? That was a dispute between you and the Pleiksna family. Do you remember that?---Never. It was a dispute, they want a copy of that and I say, no - - -

That's right?--- - - - I can't give you copy because is unofficial and I haven't checked that is true.

But that's what that was - - -?---It was - - -

20 Please, listen to me. That's what they were saying to you, we want the copy of Sandra's results. That's what they were saying to you and you were saying no, you can't have it?---That's right.

That's right. And they were saying to you that they regarded the results of Sandra's tests as very valuable intellectual property?---Sorry?

30 They said to you words to the effect that they regarded these results, the Pleiksna family regarded these results as valuable?---They haven't said that. I can't remember they say that. Well, I can't, not only that, even if they say that, they don't have the right for it.

Well that's what you were asserting wasn't it? You were asserting that they had no such right to this valuable intellectual property. You were saying no, you can't have it, it's not yours?---I say you can't have it because I'm not sure is authentic.

40 But you regarded it as valuable did you not?---I haven't regard it anything is valuable unless is authentic. So it wasn't authentic at that time. I can't, at that time I haven't got the chance to check how honest is it or if is true. So that's why I don't want to give some document which was, I was suspected that is something is wrong with it to someone else. Even if not from the company.

Please listen to me. But I suggest to you that in February, 2009 you had a conversation with David Pleiksna where you discussed the test results that Sandra Lazarus had produced and you said that they were valuable and that you wanted \$2.0 million for them?---I like to tell you, since 5 - - -

THE COMMISSIONER: Just say yes or no?---No. It's - - -

No. And I think that in fairness you should say the results for what?

MR STITT: Well, your Honour, so that you are under no disadvantage Mr Neiron, I suggest to you that you had a conversation with David Pleiksna in a telephone conversation where you and he discussed the valuable intellectual property rights which Sandra, which Sandra Lazarus' results had produced. Do you remember - - -?---Absolutely lie.

10 Do you remember that conversation?---Because at that time we dealing in court case. And that time we, we haven't spoke not with David, not with David Pleiksna and not with Vern Pleiksna or anyone in his group, we been in court case. We haven't spoke with them. The court case start a lot before. No, that is absolutely rubbish.

Well let's just take it a step at a time so that you are under no disadvantage. I suggest to you that in the conversation with David Pleiksna you discussed the value of the intellectual property rights in the test results and you said if you do not pay me \$2.0 million for the intellectual property rights, I will
20 burn and destroy the results of the clinical trials of the Medex test in Australia.

MR ALEXIS: Can I object?

THE COMMISSIONER: Just a minute.

MR ALEXIS: Commissioner, unless the results are identified in some way relevant to the matters that the Commission is interested in, whatever the answer to that question might be is, in my submission, completely
30 irrelevant. I mean if the proposition is that the rights had value and those rights related to trials at a particular hospital that we're concerned with, well one can understand the significance of that proposition. If we're arguing over results relating to other hospitals, then in my submission the point doesn't go anywhere.

THE COMMISSIONER: I'll allow the question.

MR STITT: I'll put it to you again, Mr Neiron. You recognised and knew that these test results which Sandra Lazarus had produced were valuable?
40 ---No.

And you said to David Pleiksna in a telephone conversation in February, 2009, if you do not pay me \$2.0 million for the intellectual property rights, I will burn and destroy the results of the clinical trials of the Medex test device in Australia?---I'd like to tell you something - - -

THE COMMISSIONER: No, no, just say yes or not?---No, is rubbish because as soon as you have clinical trial and published is for the public.

And everyone can get access to that. So what is the rubbish you come from?

MR STITT: I'm just suggesting that that's what you said, you see?---I just suggesting you try to say the rubbish to me. And make me very angry with it.

THE COMMISSIONER: Well, Mr Stitt is only doing his job, Mr Neiron. Just (not transcribable).

10

MR STITT: Your honour, (not transcribable) very well, your Honour, either.

THE COMMISSIONER: We're all trying to do our jobs and it's not personal?---No it's person because they try to give me rubbish which is not correct.

All right, Mr Neiron. I understand that that's your attitude. Now Mr Stitt, I've invited you and Mr Alexis has pointed out, sorry - - -

20

MR STITT: Sorry?

THE COMMISSIONER: I've invited you to identify the results, Mr Alexis has made submission based on your omission to do so, I'm still asking whether you are going to?

MR STITT: Well your Honour, I can only operate on instructions.

THE COMMISSIONER: No, I understand that.

30

MR STITT: And, and I, I can't - - -

THE COMMISSIONER: Your instructions are as you put them.

MR STITT: I can't then elaborate those instructions in a way which Mr Alexis might like me to do, but that would be - - -

THE COMMISSIONER: I understand that.

40

MR STITT: - - - offending my obligation.

THE COMMISSIONER: No, I understand that. So the inferences flow from that which we will deal with. I mean that's what happens in the, the way the procedure works.

MR STITT: Yes, your Honour.

THE COMMISSIONER: I just wanted to understand exactly what the position was and I now do. I just, there's something else I want to understand Mr Neiron. These results, let's forget about the results that Sandra Lazarus did or didn't have?---Yes.

I just want to try and understand what happens. If you get a researcher, say a researcher goes out to the hospital, some other hospital say - - -?---Yes.

- - - and tests a number of people - - -?---Ah hmm.

10

- - - say 50, 200 people?---Ah hmm.

The results come back, the results that the researcher produces, are those the results at that stage – only the results that are shown on the computer screen of the Medex device?---No.

What are those results?---What happened they have, when you conduct clinical trial and you have the results they have what they call interim results. And assume they have any interim results they don't give it to us they publish it on the internet.

20

No, I'm sorry - - -?---And when they have results is the results again publish in internet.

Look, I don't know what happens and so I'm completely ignorant of how this works and you've got to treat me in that way that I'm ignorant.---All right.

Now, the researcher has finished taking the tests – what does this researcher then do as regards Medex's concerned?---Nothing.

30

Does the researcher bill the tests to you?---No, nothing at all.

What does the researcher do?---The researcher have to put the article in.

I beg your pardon.---Article, like the, it's called like, it's write it up what is the results, what is his opinion, what is his recommendation. He give the article.

40

But I understood you to say that the results, that the test involves two processes, the one is the actual taking of the tests and the second is the interpreting of the tests.---Yes.

And those two functions are conducted as I understood you by two different people usually.---Yes.

So if you've got a researcher who is say a student who goes out to do the tests - - -?---All right.

- - -those results, are those results – would it be wrong to describe those results say as raw results?---No, the test is not the results, the test only give a graph on the screen.

And then - - -?---And then the other part, let's say the doctor the other one that he interpret it and then he combine the all interpretation of the whole patient and he give his opinion what he think about the results.

10 And when the article is written - - -?---Then he give it to the co-ordinator. The co-ordinator collect all piece information and they call it generally together with the university or with a doctor they put the article together. When they put the article together then they publish it the article. When they publish the article – yes – that is the moment that the article is open to the public.

All right. Now, when Sandra, as I understand your evidence you say Sandra Lazarus gave you the Strathfield Hospital results?---She gave me a copy of what been published in a New England Journal.

20

Was that based on the Strathfield Hospital results?---Yes.

And who had done the interpretation of those?---I don't know, I don't know.

Did you have anything to do with the publication in the University of New England Journal?---No, I can't, I do not have any control of them. I - - -

30 So when is, was the first time you saw that article after it had been published or before it was published?---I can recommend it to the journal, you can recommend, everyone can recommend to publish this - - -

When was the first time?---To publish any clinical trial.

When was the first time you saw the results from the Strathfield Hospital? ---Sometime November, I think it's November 2008 or may be I can't remember exactly but now in between, between August to December 2008.

40 And those results were in the form of an article?---Yes, I receive it on the internet from Sandra results.

It was a published article?---She sent me, she sent me what it looked like on the, on the medical journal.

And who, who, you don't know who interpreted those tests?---No.

All right.---I mean it's - - -

I'm sorry, I'm sorry it has taken so long.---Then I contact the medical journal to - - -

All right, okay, that's enough.

MR STITT: In answer to his Honour's question, did you or anyone else to your knowledge train any doctors to interpret the results of the Strathfield Hospital testing that Sandra Lazarus had done?---I haven't been here, I knew that is only a (not transcribable) training but I haven't been here so I
10 can't tell you who been here or who wasn't in the training.

So you have no idea who it was that interpreted the results obtained by her at the Strathfield Hospital?---No, I don't have.

But that was part of the material that you had when you were talking to the Pleiksna'?---That is part of the material that Sandra Lazarus supplied to me because I like to know who the doctor was involved.

THE COMMISSIONER: Well, we know when you say you had it, you say
20 you had it towards the end of 2008?

MR STITT: That's what he said.---I request it in 2008, yes.

THE COMMISSIONER: And you got it then?---I got it, yes.

MR STITT: Yes, that's what he said yesterday.

THE COMMISSIONER: So well, then that answers that questions because there is a dispute as to the conversation so, it all depends on whether the
30 conversation occurred.

MR STITT: It is also your evidence is it not – that Sandra Lazarus was not going to do the interpreting part of the tests because, as I understand your evidence, she wasn't qualified to do so. Is that correct?---According to my knowledge, yes, that's correct.

Well then - - -?---And according to my knowledge she hasn't passed the test so - - -

40 But if she wasn't going to do the interpreting of the material and you don't know who was going to do the interpreting. Is that the position?---That is not my duty to do.

But the answer is - - -?---Until your duty is of Sandra - - -

The answer is you didn't know, please, the answer is that you didn't know who was going to do the interpretation of the results?---I know that she asked someone in the university but I don't know the person.

Well, is it your understanding that that interpretation in fact took place?
---It's my understanding that is that Sandra mentioned to me that someone
in the university will do that.

When Medex or Sydvet started its operations in Australia did either of those
organisations or companies train doctors to be qualified to interpret these
tests results?---Excuse me. Sydvet is exist over 25 years so it's nothing to
do with Medex.

10

THE COMMISSIONER: No, no.---I don't understand what you're talking
about.

Did anybody, did you train in doctors in Australia, did anybody train any
doctors in Australia- -?---Oh yes, yes.

- - -to interpret the results?---According to my knowledge and according to
facts that I provide, they did two training courses here in Sydney.

20

MR STITT: And who were the doctors that were trained in those courses,
what were their names?---Dr Alex Kanevski, Dr Elia Kerman(?) and Dr
Itzhak Reitzfeld.

THE COMMISSIONER: And those were the people who trained but I
think Mr Stitt was - - -?---No, this is the doctor that fly in from Israel to
train the doctors here.

30

Yes, but do you know the names of the doctors who were trained here?
---No, no. I only met, I met two doctors but only one of them I can
remember Dr Saab or something like that. I can't remember if he'd been
training or what.

From what hospital?---Oh, I don't know, I think it's a private doctor, I think
he's got his own practice and I think it is some reason is he got some, I don't
know, I can't say.

Mr Stitt, I'm afraid you've got five minutes.

40

MR STIT: Now well, I'll just stop now because I'm not sure that there is
any more useful.

THE COMMISSIONER: Yes, thank you Mr Stitt. Mr Hogan, I presume
you have no questions.

MR HOGAN: No, I do have some questions.

THE COMMISSIONER: You've got, well I've been asking Mr Stitt I
would have expected you to warn me that you have questions.

MR HOGAN: Well I - - -

THE COMMISSIONER: Because I've got a witness here to give evidence and I've allowed Mr Stitt to go on after making it clear on a number of occasions what I'm doing. I expect Counsel to say that I've also got some questions.

MR HOGAN: I thought you were going to have Mr Neiron come back at 2 o'clock.

10

THE COMMISSIONER: No, certainly not, he's got to go to the airport.

MR HOGAN: Well, I haven't challenged any of his evidence. There are matters germane to my clients.

THE COMMISSIONER: You had so much opportunity to tell me that we need to allocate time for you and you didn't.

20

MR HOGAN: Well, I assumed that you were going to have him come back at 2.00.

THE COMMISSIONER: But he, I told you had to go, you were here yesterday when I said he could leave at noon to catch the plane.

MR HOGAN: Well, may I have a couple of minutes?

THE COMMISSIONER: Yes.

30

MR HOGAN: Mr Neiron, can you have a look at this document, it has been provided to counsel assisting, it's attached to an email from, to Ross Smith from Sandra Lazarus.

THE COMMISSIONER: What are you looking for, Mr - - -?---My glasses.

MR HOGAN: Sorry.

THE COMMISSIONER: Look, I will, Ms Furness, I will sit 'til 1.30.

40

MS FURNESS: Dr Pavlakis' clinic begins at 1.00, he is prepared to stay until 1.30, there's a registrar covering for him so - - - -

THE COMMISSIONER: Well, I'm sorry.

MS FURNESS: But nevertheless it is his clinic.

MR HOGAN: Is that, is that the article that your received in November 2008 from Sandra Lazarus, an article entitled - - -

THE COMMISSIONER: Has this been produced to the Commission?

MR HOGAN: It has, certainly copies have been given to - - -

THE COMMISSIONER: When?

MR HOGAN: Last week to, to the solicitors (not transcribable) and Professor Smith gave some evidence about it, he has an email.

10 THE COMMISSIONER: Right.

MR HOGAN: Does that look like the article that you received from Sandra
- - -

THE COMMISSIONER: Is there a copy for me?

MR HOGAN: I'm just having one located. Yes, I have one.

20 Is that the article that you received from Sandra Lazarus in about November
2008 that you were seeking from her, a publication?---It looks like, yes, I
am not sure of the words by words but that is how they look 188 patient,
yes.

Yes. And the article that you received from her you no doubt read with
some interest and in detail, did you not?---Not really.

Well, you've, you've, your evidence is that you - - -?---Not really because it
was some, I generally forward the, I mean I just look general the, the results
- - -

30 Yes?--- - - - and then, and then it is, I waiting for the, the last one, I mean
the, the, what do you call it, the final article to come and then, as it appeared
on the, on the medical journal, that is not, I mean it is, it's nice to have it
sometimes to look at and that's all.

Yes, thank you for that. Your best recollection, Mr Neiron, is that that's the
article that you received and that you read it, is it not?---Not really. I mean,
it is, I look maybe a few pages.

40 All right. And did you see there that - - -?---And I saw some, I think it was
some - - -

Just listen to my question, did you see the Royal North Shore Private
Hospital Department of Surgery and that it also had Professor Ross Smith's
name on it?---Yes, I see now.

Yes, but you saw it at the time when you - - -

THE COMMISSIONER: Where is Royal North Shore oh, I see, yes?---I'm not sure if I saw it before.

MR HOGAN: No?---No, I'm not sure.

So this is the article or the publication that you were desperately seeking from Sandra Lazarus which you say you may have flicked through.

10 THE COMMISSIONER: No, that's not the, that is not correct?---No.

That is not correct, that this article that he was desperately waiting for is the one that was published.

MR HOGAN: He said it was a draft or what was going to be published in his evidence just then.

THE COMMISSIONER: Yes, yes, but the rhetorical flourishes are unnecessary.

20 MR HOGAN: Yes, right, I take your point.

Is your best recollection that this is what you got from Sandra Lazarus or not?

THE COMMISSIONER: He, he said yes?---Yes, yes.

MR HOGAN: Yes, all right?---I mean it is, I, I don't know word by word but it, that is look like.

30 And in November 2008 did you observe that there were references to Royal North Shore Private Hospital and tests conducted there or not in 2008?
---Sorry, what was your question?

When you looked at the article did you see that it, it was relating in part to tests conducted at Royal North Shore Private Hospital and had the name of Associate Professor Ross Smith?

THE COMMISSIONER: What is this to do with your client?

40 MR HOGAN: Well, it goes - - -?--- I am sorry - - -

THE COMMISSIONER: Just a minute.

MR HOGAN: It goes to his answers to your questions, sir, and it goes to creditability and then I - - -

THE COMMISSIONER: No, I'm not, Mr Stitt has had ample opportunity to test. If you want to ask questions about Michelle Lazarus, anything to do

with marketing services you at liberty to do so but I am not going to allow the same ground which Mr Stitt covered if I may so perfectly thoroughly - -
-

MR HOGAN: Yes.

THE COMMISSIONER: - - - to be reopened.

10 MR HOGAN: It's only because this hadn't been tendered that I raise this matter.

THE COMMISSIONER: Yes.

MR HOGAN: It wasn't tendered during Professor Smith's.

THE COMMISSIONER: I understand.

20 MR HOGAN: I will only deal with those matters and I will deal with them quickly and efficiently.

Michelle Lazarus, sir, could you listen to some questions I, I - - -

THE COMMISSIONER: Are you going to tender this now?

MR HOGAN: Yes?---Well - - -

THE COMMISSIONER: All right. Just a minute.

30 MR HOGAN: And it has a - - -

THE COMMISSIONER: The article forwarded or, the draft article forwarded to Mr Neiron by Sandra Lazarus is Exhibit 51.

#EXHIBIT 51 - DRAFT ARTICLE ON DETECTION AND SCREENING OF BREAST CANCER USING MEDEX TEST

40 THE COMMISSIONER: Now, look, Mr Hogan, you've got five minutes.

MR HOGAN: Yes, I will deal with the matters that I have in that time.

Mr, Mr, Mr Neiron, could you listen to my questions, I'm going to ask you several questions. Jessica Lazarus, could you stand up please. Do you recall meeting that young lady in 2007 and where she attended a training course for three days in August 2007? You, you met her and had a conversation I suggest with her?---It's very difficult forme to give you answer, I haven't been in this course so I can't give you.

All right?---So you're asking me something - - -

THE COMMISSIONER: So you don't, you can't say?---I can't say.

MR HOGAN: All right. But is that just with the passage of time that you may have forgotten that you've met that woman and, and she attended a training course and you gave her a certificate?

10 MR ALEXIS: Well, I object to the question. The answer was clear. I wasn't at the course.

MR HOGAN: I'll withdraw the question.

MR ALEXIS: So any question that follows about that recollection doesn't follow.

THE COMMISSIONER: Yes, Mr Hogan.

20 MR HOGAN: So if Michelle Lazarus could stand up, Jessica sit down.

Do you recall having a number of meetings in 2007 and 2008 with that young lady?---No, I can't, I can't remember this face, I'm sorry, I can't remember this face. The other lady I think that she's been once in the local company, I think I mentioned it before, she come with her mother, they come with the mother, with a old lady. I'm not sure, I think I met her maybe once or twice, I am not, I can't recall it exactly when and how and whatever.

30 All right. I want to suggest to you that you had a number of meetings with her about marketing and - - -

THE COMMISSIONER: With whom, the second - - -

MR HOGAN: With Michelle Lazarus in about 2007 and 2008, that you had four meetings?---Never, never. I can't remember that at all that I spoke with anyone about marketing.

40 All right. And you've been shown the two letters which are in Exhibit 1 and they are the letter you sent to the hospital about the \$75,000 which is attached to you statement?---(NO AUDIBLE REPLY)

Do you have that?

THE COMMISSIONER: Sorry, what, what letters are these?---The letters with Sydvat on the top of them.

MR ALEXIS: Page 95.

THE COMMISSIONER: What is your question?

MR HOGAN: My, well, I'm just asking him to look at the letter and it has Sydvat Pty Limited on it, do you see that?---Yes.

Yes. Was Sydvat Pty Limited deregistered in 1993?---(NO AUDIBLE REPLY)

10 I'm not talking about Sydvet, Sydvat Pty Limited?---In 1993?

THE COMMISSIONER: We're talking about the company S-Y-D-V-A-T?

MR HOGAN: Correct, Pty Limited?---In Australia?

Yes?---You're talking about the company in Australia?

Yes?---Yes, because Sydvat is the company, yeah, in '93, I can't remember exactly the date.

20

It was deregistered but you're writing letters as the CEO of it are you in 2008?---Excuse me.

International Chief Executive Commissioning Officer, I'm asking you, you're aware are you not that that company which you're writing letters with that letterhead, was it deregistered in 1993?---Excuse me.

So you deny that?---Excuse me, that is incorrect at all. I just (not transcribable) and I just - - -

30

All right. Can I show you another document, that's the last question, sir? ---You show me document, this is the company, that is our company's - - -

THE COMMISSIONER: Sorry, I - - -

MR HOGAN: I have one more question.

THE COMMISSIONER: Mr Neiron?---Yes.

40 If you look at that letter at page 95 I don't see, the only Sydvat I see at the bottom of the page is Sydvat USA Inc?---Yes.

At the top of the page you've got Sydvat, S-Y-D-V-A-T Pty Limited? ---Excuse me, I don't understand, regarding which company are you talking?

I'm just talking about the letter?---About the letter?

Yeah?---All right.

Now, we're trying, you've been asked some questions about the company being deregistered. This, this - - -?---Which company is deregistered?

It is said that Sydvat, that is, S-Y-D-V-A-T - - -?---V-A-T.

- - - in Australia not - - -?---In Australia, we're talking about the company in Australia.

10

Was Sydvat ever in Australia? S-Y-D-V-A-T? I really have no idea why this is relevant?---We have a Sydvat in Australia.

What, S-Y-D-V-E-T or V-A-T or can't you remember?---I can't remember if the spelling with A or with E (not transcribable) but it exist and it registered for many years and operate all the time. And I can, I can (not transcribable) to our account and ask them on the spot.

MR HOGAN: Two questions, sir.

20

THE COMMISSIONER: Yes, Mr - - -

MR HOGAN: The other one is the letter which you sent on 3 July which is attached to your statement - - -

THE COMMISSIONER: What page and where is it?

MR HOGAN: It's attached to his statement, I don't know that it is in Exhibit 1. It is the - - -

30

THE COMMISSIONER: Where in the bundle is it?

MR HOGAN: Fifth statement, fifth document attached to Mr Neiron's statement, a letter of 3 July to Professor Hugh Carmalt.

THE COMMISSIONER: At Strathfield Private Hospital?

MR HOGAN: Yes.

40

THE COMMISSIONER: Yes.

MR HOGAN: Again having Sydvat Pty Limited, V-A-T on the top.

THE COMMISSIONER: Well, you've first got to establish that it's his letter.

MR HOGAN: He said he sent it.

THE COMMISSIONER: He said he sent it.

MR HOGAN: In his evidence yesterday.

THE COMMISSIONER: All right. You seen this letter?---Yes.

You sent this letter?---To Hugh Carmalt, yes. Possibly because I sent him a lot of letters. Possibly this is one of them.

10 MR HOGAN: Also - - -

THE COMMISSIONER: I just want to ask you something about this letter. It says he refers in the middle of it to Dr S Lazarus?---I refer to the (not transcribable) clinical - -

You see the paragraph where the, the paragraph which, right in the beginning it says Dr Sandra Lazarus?---Yes.

20 Well, did you write her name as Dr Sandra Lazarus?---Yes, that's how that she represented to me and that's how they represented to me. And they write to me also Dr, Dr Sandra Lazarus so I take it this is Dr Sandra Lazarus. And when she say she have a PhD even in her document here I believe the document say so.

Which document are you talking about?---That is (not transcribable) the clinical trial document. You see Sandra S Lazarus PhD.

30 Where does it say that? Yes, it says it at the top?---I believe. Maybe there is a typing mistake but I believe her.

MR HOGAN: Last question. Third attachment to your statement, do you have that, the letter that you've given evidence that you sent on 22 November, 2007 to Strathfield Private Hospital. You see that?

THE COMMISSIONER: Which, I beg your pardon, which - - -

MR HOGAN: This is the third attachment to his statement, Mr Neiron's statement.

40 THE COMMISSIONER: The third letter, the third attachment?

MR HOGAN: Yes. Dated 22 November, 2007?---Yes.

And in that letter you refer to Sydvat Pty Limited again in the, not only on the top of it. Inside the letter, funding grant body Sydvat Pty Limited, do you see that?---Sorry.

Second paragraph?---The second paragraph. “The financial support (not transcribable) and we sponsor the funding grant of Sydvat Pty Limited”, yes.

Yes. And you wrote that letter and sent that letter did you not?---Yes.

Yes. And I’m asking you whether you are aware that Sydvat Pty Limited was deregistered?

10 THE COMMISSIONER: I’d like to see the - and you can put your question in a different way.

MR HOGAN: All right.

THE COMMISSIONER: You can’t say you are aware, that has not been proved.

MR HOGAN: Yes, thank you, sir.

20 THE COMMISSIONER: It hasn’t been proved that it’s not re-registered either.

MR HOGAN: Was Sydvat Pty Limited - - -?---Let me explain to you. In some countries the name Sydvat written with V-A-T and some countries V-E-T because of the pronunciation. So when I type the letter, yes, I automatically write E or A, it’s not appear on the computer as a mistake because that is the name of the company. So if it’s appear this name or this name it’s mean the same company.

30 Last question, sir.

THE COMMISSIONER: Really is a matter of total triviality as far as I’m concerned.

MR HOGAN: Well, it does go to - - -

THE COMMISSIONER: It doesn’t go to anything. There’s no suggestion that anybody was prejudiced or it wasn’t a typographical error or there was any malicious intent to anything behind it that has never been raised before.

40

MR HOGAN: Right.

THE COMMISSIONER: And it has not been suggested that anyone suffered any harm or there was any misleading or that the company didn’t comply with its obligations. This is a waste of time.

MR HOGAN: The last matter is are you still as at this week perpetuating documents as a product - and this has been provided to the lawyers for

today, been printed out today - product demonstrator Johel Neiron for Medex Test Global Pty Limited?---I'm sorry?

Are you still currently putting yourself forward as a product demonstrator Johel Neiron for Medex Test Global Pte Limited?---Yes.

And are you still - - -?---Doesn't mean - excuse me please - Medex - - -

10 Are you still - - -?---Medex have more equipment and more product.

Are you still publishing documents stating that the tests are being conducted currently in Australia?---Never. Never.

I'm saying currently - - -?---Never, no clinical trial is (not transcribable). We actually published in about six months or seven months, I can't remember, that is the (not transcribable) withdrawn the registration with, with the ARTG and PGH.

20 Can I ask a question, sir. Are you aware that there are registry platforms with your name as the contact person currently as at today for tests having been conducted currently in Australia or not?---Sorry? I'm absolutely confused, I'm sorry.

THE COMMISSIONER: (not transcribable). Have you got documents there that you want to show the witness, Mr Hogan?

30 MR HOGAN: Yes. I didn't want to take up more time, I've provided them to the Commission. I'll show them to him now. Have a look at this document.

THE COMMISSIONER: Where did the documents come from, Mr Hogan?

MR HOGAN: They're printed out off the internet today.

THE COMMISSIONER: These are documents from the internet?

MR HOGAN: Yes.

40 THE COMMISSIONER: From a site?

MR HOGAN: From various sites for like Medex Test Global.

THE COMMISSIONER: You understand, Mr Neiron, you understand where this document comes from? It comes from the, from some internet site?---Yes, this company has been closed down year ago or more of that. I can't control the internet, I'm sorry. They keep it on the internet is their problem, I can't, if they keep it for the next hundred years their problem.

Can you not close it down yourself?---Sorry?

Can you not close it down yourself?---No, I can't control the internet system. I mean it is the (not transcribable), you can't. As soon as you put something on the internet, finish.

Are you really going to persist with this, Mr Hogan?

MR HOGAN: Just one more and then I'll sit down.

10

THE COMMISSIONER: This is also from the internet?

MR HOGAN: Yes. It's the registry platform and I have copies for you, sir, for the clinical trials being conducted, that were conducted at Nepean Hospital, Penrith, Australia with Johel Neiron as the contact.

THE COMMISSIONER: So what?

MR HOGAN: Well, - - -

20

MR ALEXIS: Can I ask you learned friend, Commissioner, to indicate whether it's suggested that the relevant platforms being referred to are controlled by Mr Neiron and whether he's involved in any way in publishing on this site the information that's contained in the document?

MR HOGAN: That's what I was going to ask.

MR ALEXIS: Because otherwise if the answer is no then this goes (not transcribable).

30

THE COMMISSIONER: Mr Neiron, do you have anything to do with Medex Test Global Private Limited?---Yes. We have established this company in London in approximately 2008.

All right?---And the concept was to take over one, take over the company in Israel.

All right?---And then it never happened so we closed the company - - -

40

Mr Neiron, please. I just want to ask you. You said that these companies have more than one, so does, what is the, you're shown here as product demonstrator?---Yes.

What do you demonstrate? What product is that? Is it the Medex test?
---No. We have a number of, of product. We have a balloon, we have a stent- - -

All right. Are they Medex products?---(NO AUDIBLE REPLY)

Are they products, are they products marketed by Medex or dealt with by Medex Test Global?---Yes.

All right. Thank you. Mr Hogan?

MR HOGAN: I tender that as I have- - -

10 THE COMMISSIONER: Well, I won't accept the tender. No irrelevant- - -

MR HOGAN: No, I wanted to show him the conference- - -

THE COMMISSIONER: I beg your pardon?

MR HOGAN: I'm sorry, sir, I was going to show him another document. I will put it- - -

THE COMMISSIONER: All right. Show it to him if you want to.

20 MR HOGAN: Can you have a look at this conference program. Are you able to identify that as a conference that you attended?---What you try to show me here, I can't understand it.

Are you able to identify that document or not as something you've seen before?---I read here is company called Medex Medical Solution P/L Exhibito. I don't know what it is.

30 All right. Thank you?---I don't, I mean, I know the company, yes, but I never be involved with this company, Medical Solution P/L.

THE COMMISSIONER: Ms Furness, have you any questions?

MS FURNESS: No, thank you, Commissioner.

MR ALEXIS? Nothing further, thank you, Commissioner. Can Dr Neiron be excused from further attendance?

40 THE COMMISSIONER: Yes. Mr Neiron, thank you for coming. Thank you for your evidence?---Thank you.

WITNESS EXCUSED

[12.41pm]

MR ALEXIS: Commissioner, I understand Dr Pavlakis is in the hearing room and I seek to call him immediately.

THE COMMISSIONER: Yes. Do you need a Section 38 order?

MS FURNESS: Thank you, Commissioner, and I appear for Dr Pavlakis.

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

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

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

DR PAVLAKIS: Under oath, please.

30 THE COMMISSIONER: Yes. Will you swear Dr Pavlakis in, please.

<NICK PAVLAKIS, sworn.

[12.42pm]

MR ALEXIS: Sir, is your full name Nick Pavlakis?---Yes.

And is your current position that of Director of Medical Oncology at the Royal North Shore Hospital?---Yes.

10 And in this matter I think it's the case that you've provided two statements of evidence. Let me identify them by date. The first was given on 2 July, 2010, the second on 20 January, 2011. Is that so?---Yes.

Thank you. Could I show you a copy of those two statements with a copy for you, Commissioner. And would you be good enough, doctor, to confirm that what I've provided to you is a copy of each of the statements of the date that I've already identified?---Yeah, look like it.

Thank you. Could I tender each of those statement, Commissioner.

20 MS FURNESS: Commissioner, I note that behind the second statement there has been an attempt to black out the names. They can still be read. Commissioner, perhaps a non-publication order in respect of that in relation to the patient names is appropriate?

30 THE COMMISSIONER: Yes. There will be, the names of any patients attached to any exhibit to Dr Pavlakis' statements will be suppressed and not to be published. The statement of Dr Pavlakis of 2 July, 2010, is Exhibit 53, sorry, 52. And the statement, his statement of 20 January, no, wait. I think the draft article is Exhibit 51. The Exhibit 52 is the statement of Dr Pavlakis on 2 July, 2010.

#EXHIBIT 52 - STATEMENT OF MR PAVLAKIS DATED 2 JULY 2010

THE COMMISSIONER: And Exhibit 53 is his statement of 20 January, 2010. If I've made a mistake in the numbering it will be corrected later.

40

#EXHIBIT 53 - STATEMENT OF MR PAVLAKIS DATED 20 JANUARY 2011

MR ALEXIS: Thank you. Now, doctor, I understand you're subject to some time restrictions. We'll try and get through your evidence as efficiently as we can. Could I note a number of matters before we get to some detail concerning Ms Lazarus. Should we understand that your

qualifications are set out in paragraph 4 of your statement, that's the first statement?---Yes.

And the association you have as a conjoint lecturer with the University of Sydney is set out in paragraph 5?---Yes.

10 And then from paragraph 6, and I'm looking at what follows from paragraph 6 on pages 3, 4 and 5 through to about paragraph 20, you set out some experience that you have had over the years with respect to the conduct of clinical trials?---That would be correct.

Including your experience with respect to making applications for ethical approval in respect of such trials?---Yes.

Now, can I just ask you to look at paragraph 21. And you relate to us there prior experience you've had with post-graduate or PhD students undertaking clinical research trials through your department, and particularly one that involved a patient questionnaire study. Do you see that?---Yes.

20 And should we understand that even in circumstances where a student is undertaking a trial that involves a patient either being the subject of questions or completing a questionnaire, that sort of study nonetheless requires ethical approval?---Yes.

Thank you. Now, could I ask you to just tell us what you would have understood in the 2008 and 2009 calendar years would have been the implication for a supervising doctor conducting or at least supervising the conduct of a clinical trial involving humans without approval from the Human Research Ethics Committee?---Well, I can tell you in my own
30 institution it would not be possible to conduct a trial without a protocol that has been submitted to ethics and has both scientific and ethical approval.

But what would be the consequence to a doctor that is supervising the conduct of such a trial if the doctor knew at the time that no approval had been obtained from the ethics committee?---Well, I think he'd be under, he's be in trouble. I'm not sure exactly who would, who would actually get him into trouble. If it was in fact a sponsored trial, this sort of finding would be observed through a formal audit and the person may be struck off and not allowed to actually perform further clinical trials in the future.

40 THE COMMISSIONER: Struck off the register?---Not, be not allowed to, well, possibly, but I've not any personal experience with that. The only case I'm aware of internationally of fraudulent activity of that kind was a clinical trial in breast cancer in South Africa and that made major headlines when it arose about a decade ago.

MR ALEXIS: Thank you. Now, coming to some particular detail, in paragraph 22 you tell us about a telephone call that you received from a

female. And what should we understand as to your best recollection as to how it was that the person on the telephone introduced themselves to you?
---I cannot honestly remember the specific first name, but I do recall that Lazarus was probably the surname. My recollection on the gist of the conversation was that the person declared themselves as a post-graduate fellow. I recall an association with Professor Gil Burton and that the trial had to do with cervical cancer. And I made those connections, they made sense to me, and I believe that it was a conversation largely to gain in principal support to conduct the research, not that I was going to be formally involved myself.

And did the reference in the conversation to the caller being a fellow provide some implication to you as to what that meant?---Well, to myself a fellow would imply a fellow of an affiliated college. It would be a degree associated with a medical degree and a form of post-graduate qualification under a specific college. And to undertake research with Professor Gil Burton I assumed that it would be a fellow of the Gynaecologic, Obstetrics and Gynaecologic Associational College.

20 Because of the specialty that Professor Burton had to your knowledge?
---Yes.

Now after introductions was a request made of you during this telephone conversation?---I don't recall a specific request.

Well if you look at paragraph 26 of your statement and perhaps request is not the correct word, but in the course of a conversation after introductions was something asked of you?---My, my recollection of the conversation was that it was to gaining principal support to attend the clinic to undertake the study. It was more a request as I was the head of the department where patients may be attended by her rather, by the person who was requesting permission rather than I had to do anything specific myself.

But was Professor Burton operating then within your department?---No.

So how should we understand the first sentence of paragraph 26 where you tell us there that the female person was seeking permission as the Director of Medical Oncology Department to gain access to patients within your department?---Well we have patients who have either had cancer or are in follow-up for cancer that attend our clinics. And as similar to the point that you asked earlier about the questionnaire study, we get asked occasionally to allow access to patients through attendance or presentation in the clinic or through the formal request of a patient list where we can provide a list of patients.

And is that why you tell us of an understanding you had in 27 that you yourself would have no direct involvement with the conduct of any proposed trial?---That's correct.

All right. Now what was your response to what was asked of you during this conversation?---As I said, I felt and my impression of the conversation or the gist of it was to gain in principle support and at face value it seemed a reasonable thing to agree to. And would normally follow if I was to have more formal involvement would be a face to face meeting the clinical protocol, et cetera.

10 Do you recall during the conversation speaking on the subject of approval from the Human Research Ethics Committee?---I don't recall details of that nature.

All right. Well just have a look at paragraph 28 of your statement, doctor, and you'll see that you make reference to agreeing to assist the female in principle and perhaps you can read the rest of that sentence?---My statement there is based on the assumption that if she is to proceed it would have to be with formal ethics.

20 So we should understand that the proviso that you put in your statement was the proviso in your mind not necessarily one conveyed to her during the conversation?---Quite possibly.

All right. Thank you. Now after this telephone conversation did you ever come to either meet with or speak with the female that you had the telephone conversation with, leaving aside whether that female being Michelle or Sandra Lazarus?---No.

30 No further communication on the subject of what had been discussed at all? ---I don't recall. The next I heard about this was the events the following year in regards to the claims for invoices and then the ICAC investigation.

So is the next event connected with what was discussed during the telephone conversation the approach that was made by the finance and account section of the Northern Sydney Central Coast Area Health Service?---That I can recall in regards to that conversation, yes.

40 Well you tell us in paragraph 34 of your statement, page 9, that you were unaware of any involvement of your department until you'd been contacted by the finance section. Do you see that?---That's correct.

Now I just want to get some timing clear. You tell us later in your statement I think that you spoke to Dr Back after you'd returned from leave. And perhaps I could assist you by directing you to paragraph 38 of your statement. You see - - -?---I can see that.

- - - you refer there to leave over Christmas, December 2008. January, 2009, you had a conversation when you got back with a colleague, Dr Back. Do you see that?---That's correct.

And so was that before or after you'd been contacted by the finance department?--No, that was before the finance department.

All right. So when should we understand the contact from the finance department occurred, approximately in the 2009 year?--I would say it would have been the first half of the year, probably second quarter. But I cannot recall the exact date.

10 Now after receiving that approach from finance, did you ask for the voucher that was the subject of the communication to be produced to you?--Yes, I did.

And why was that?--Because I couldn't recall any, any clinical trial that I would have signed for the amount of money that was requested on that invoice.

20 And should we take it that you understood from the approach that came from finance that you were told about a form and that a large amount of money was the subject of the voucher that was before them?--That's correct.

So you came to receive a voucher and a tax invoice, you tell us in paragraph 36. Is that so?--Yes.

30 Now I just want to get something clear before I come to some detail. I'm not sure whether this was intended or not, but do you see in paragraph 36 you say, upon receipt of the non-order voucher and tax invoice your secretary and you then were able to come to a conclusion about something. Do you see that?--Yes.

So are you deliberately referring to a singular voucher and invoice or was it not intended to refer to a particular one? And can I add to that question - - - ?--It was a single, it was a single invoice.

Right. I'm drawing attention to it because we now know that your signature or what at least appears to be your signature is on at least 10 vouchers with respect to 10 invoices. Do you follow?--Yes.

40 So we should understand that after you were approached by finance and you called for the voucher and the invoice you received one?--Yes.

And do you recall whether the one that you received had a date next to your signature or what appeared to be your signature?--Quite honest, I can't quite honestly say I recall the specific date. I believe that one of the signatures that I was referring to or the statements is of the May invoices.

The reason I ask sir, is because when we look at the vouchers that purport to record your signature there is a handwritten date next to a series of them, a date in February, 2009. The other series of vouchers don't have a date next to your signature. So I'm seeking to understand whether or not the voucher that you obtained to look at had the date of 16 February, '09 or no date at all?

THE COMMISSIONER: Or can't you remember?---I can't recall the date aspect of it.

10

MR ALEXIS: All right. All right. Well look, what I would like to do is this. Could I show you please firstly from Exhibit 1 and in the top right hand corner, Dr Pavlakis, if you could open the bundle of documents to page 265. And also if you could look at the voucher at 267, 269, 271 and 273. And my question to you is whether or not you are able to identify one of those series of vouchers that have the date adjacent to what purports to be your signature of 16 February as the one that you received from finance?---I cannot honestly say that that was the one or one of these was.

20

Thank you. Could you just come through to the next series which starts at page 278 and if you could look at 278 and note that adjacent to what appears to be your signature the date is left blank – and could you look please at the further vouchers in the series at 280, 282, pardon me, 284 and 286. Now could I show you please what purport to be the vouchers that I've just taken you through as copies in exhibit 1 with what appear to be original signatures. Firstly, I'm showing you those with the dates 16 February 2009, and secondly when I show you a bundle which I can describe in the same way that have no date adjacent to your signature but have the May date above. Now Dr, in paragraph 36, you tell us that when you received the voucher from finance you were then able to say that it was not your signature as the approving officer on the non-order voucher.---Yes.

30

Now, leaving aside which particular voucher you were referring to in the series of vouchers, having had the opportunity to look through what appear to be vouchers with original signatures, what's your position with respect to whether or not you signed any of those voucher forms?---There are a number of them here that I would say unequivocally are definitely not my signature and there are others where there is a similarity with my signature that I cannot categorically say isn't mine but the forms are very unusual and I don't see why I would have signed them.

40

All right. I'll get you to identify which fall into each of those categories in moment but can I just ask you a couple of questions about your signature and your position at the time and dates referred to. Now firstly, in February 2009 and in May 2009, did you have any knowledge of the conduct of any clinical trials that are referred to in either the vouchers or the invoices? ---There were no such trials being conducted in the department.

Did you have any knowledge as to whether the Department of Medical Oncology was involved in any such trails in February or May 2009?---I am certain that there were no such trails in my department.

Now, is there something about the signatures on each of these pages and perhaps this might be the point in time where you can identify which are unequivocally not yours and which you're not so sure about – but is there something about the N for Nick and the P for Pavlakis on these signatures which you can direct the Commissioner to which assist in identifying your position?---My usual manner of signing is to separate the N and the P.

So if I could just get some clarity around what you're saying. If we look, for example, at page 265 of the bundle and if it assists you – you can look at the document that appears to be the original of 265 which is one of the one's that I have given you, but what do you say about what purports to be your signature according to your usual practice?---The main distinction is in the N and the P. There is a similarity in style with the remainder even though it looks different also.

All right. Now while we have that document, do you see that adjacent to the title box we see the typed words, Head of Department, do you see that – and does that tell you anything about whether you signed this document or not? ---If mine, in mine it would have head of Department of Medical Oncology, that would be written in my, that would have been prepared for me to sign.

And if you were presented with a document that just said Head of Department, what would you do with that title description before you signed it?---Well, if it was written by someone in my own department I'd get them to correct it. Most of the invoices that I would have prepared for me for the purposes of signature for a trial are actually prepared by my clinical trials unit managers or trails nurses.

All right. Now what about the handwriting of the date 16/2/08. What can you tell us about that?---I tend to put a zero in front of the two when it's a, when the number is below ten in integers for the month but I cannot categorically say that I could, that wouldn't on occasions miss that.

All right. Now, if we just look at 265 – I'll withdraw that I'm sorry, we've dealt with that. 267, and what I'm seeking to do is understand from you those vouchers that you can be unequivocal about and those that you cannot. What do you say about 267?---Again, the lack and the N and the P separation, the rest of the signature is similar to mine but again, there's a major fundamental irregularities in the form such as the department, head of department and the goods and services for clinical research being cervical cancer that would have been a trigger to me that it's something that we're not a part of.

THE COMMISSIONER: Dr, I just want to clarify one thing, I think you've given evidence about this so I apologise for me asking you about it again, if you see the details of the expenditure on this voucher which is goods and services for clinical research for cervical cancer, would have been any indication to you as to whether you should sign the document or not?
---Well, the other unusual aspect is the size of the amount, the fact that it's very round, most of the invoices that we have usually have a dollar and cents associated with it and are for much smaller values to do with expenditure related to out of routine sequence tests, out of routine practice tests. So they are much smaller than.

But the fact that it also refers to goods and services for clinical research - - - ?---That's very unusual to be written in that way.

How would it normally be written?---It would be more specific as to what it was that the services were.

So if this had come onto your desk for signature in this form, what would you have done about it in the ordinary course?---I would have just asked my trials manager what this was about.

And you didn't do that?---Well, I don't recall signing the form in this format as it's represented here.

MR ALEXIS: Dr, we've deal with 267 I think, what's the position in voucher at page 269?---I would say similar with what I said for 267.

Just so we're clear, these are vouchers you can identify unequivocally as not being signed - - -?---The N and the P are different, the remainder of it, again has a similarity to mine.

But what I'm seeking to get clear with you Dr, is what are the vouchers that you said earlier you can be unequivocal about in terms of it not being your signature and those which you cannot be as sure.---Okay.

Now, is 269 one that you could be unequivocal - - -?---I cannot be as sure on 269.

Not as sure.---Not as sure.

And what about 271?---271 or 273 cannot be as sure.

Okay, thank you. Now the next series of vouchers which are the ones that don't have a date next to your signature box at 278, 280 and following, does the absence of a date adjacent to your signature assist you in expressing your position with respect to those signatures?---Well they're totally, sorry to interrupt, they are totally unusual.

And why is that?---Well, I would always write the date, it wouldn't be accepted – it would be knocked back if I didn't.

So your practice is to always date adjacent to the signature of these sorts of documents?---And that's correct. And if these documents had been prepared by my data managers, if I'd missed the date it would be clearly pointed out to me that I had.

10 All right. So how should we understand your evidence then about the, the documents that have, what appears to be your signature without a date?
---These are most unusual.

there's expense involved it would come to the manager of the trials unit to prepare an invoice like this for me.

20 THE COMMISSIONER: What are you, you've referred more than once to data managers. Are these people to whom this kind of voucher would ordinarily go to first?---For, for the purposes of a clinical trial or where there's expense involved it would come to the manager of the trials unit to prepare an invoice like this for me.

And who is that person?---At that stage it would have been Sally Macout.

Otherwise is there no one else who would put the - - -?---If not her then it would have been, we have a secretary within the department who also would prepare them on behalf of Sally.

30 And are they trained to have the, the vouchers prepared in a particular format?---I recall at the time when this was, at the time that we're referring to that it was more usual that these would have been handwritten but we've moved away from that over the years so I can't be categorical on when that would have changed.

40 And what is their duty? Is it their duty to check the validity of the, of the vouchers or why does it come to you through them?---Well, the, the conduct of a clinical trial requires a great degree of precision and integrity of the data and in the integrity of how the trial was conducted for the patient's benefit and there's a great degree of trust in that relationship that we have and we seek people who are very particular and very meticulous in their presentation and that's one of the skills that we would seek in a data manager.

So what does the data manager, data manager's duty in relation to clinical trials?---The data manager is basically the patient's chaperone for the trial. They usually have submitted the, one of them will have a designated duty to submit the trial through the ethics application and they will be the person who is a designated data manager for that specific trial. There will be a doctor who will act as the chief investigator for that trial and will be the

main signatory for anything, any conduct to do with that trial but usually the documents are prepared for them by that particular data manager for that particular trial.

10 And have you discussed these, the, these particular clinical trials said to have been carried out by Sandra Lazarus with your data managers?---I know for a fact that we did not conduct any trials of this nature in cervical cancer. We run a clinical trials protocol meeting every month. As the head of the department I have a list and a regular update on what trials are being
10 conducted. Any trials that are going to be put through the department have to be brought to the meeting for a collective agreement and this has not, these trials were not under our administration.

MR ALEXIS: Now, Dr Pavlakis, in your second statement if I could just go to that and I might get some assistance in removing all of those vouchers from the witness box there, I'll get them sorted before I tender them, but in paragraph 10 of your second statement marked as Exhibit 53 should we understand that what you're referring to there culminating in the work of the "trials office manager" is the data manager that you were referring to a
20 moment ago?---I think that's, that paragraph summarises it.

Thank you. Now, in February and May 2009 did you understand what the cost centre number was for the medical oncology department of which you were the head?---To be perfectly honest I wouldn't know it off the top of my head.

30 So if you were presented with a form like this voucher with a particular cost centre number would you have responded to an inaccurate number if it wasn't at the time the number of your department or not?---That, the number itself wouldn't have been how I would have picked up an inaccuracy.

Thank you. And just so we're clear on that subject, in paragraph 47 of your first statement you tell us what the cost centre number is for your department and then I think in paragraph 48 you contrasted with the cost centre number that appears on each of the vouchers that are said to have been signed by you. Is that how we should understand that?---Yes.

40 The point being that the numbers were different?---Yes.

Now, finally on this issue, in paragraph 51 you tell us that you have no delegated financial authority, do you see that?---Yes.

And was that the position in February and May 2009?---Absolutely.

And should we understand what you're saying there as you having no financial authority to approve payments for the gynaecological oncology surgery unit which was outside of your department?---That's correct.

And so is that perhaps another matter to which one should have regard on the question of whether or not you signed these forms?---Absolutely, I wouldn't knowingly sign a form for another person's department.

10 All right. Now, in your second statement in paragraph 6 you tell us a little about your working day on 16 February, 2009, that's the earlier date on the vouchers to which we've referred and by reference to a copy of the diary for that day which you've attached to your statement or at least from what can be seen from what's attached, can you just step us through that day, perhaps indicating the time of day that you started on 16 February, you'll see paragraph 6 opens by reference to something happening in the morning until 11.00am but what time did you start?---I usually start work quite early, somewhere around 7.00am.

20 All right?---I went to the department to complete the, basically to go through documents for signing and to get my emails up and running, I then attend to ward meetings, usually between 8.00 and 9.00 where I see my patients and between 9.00 and 10.00 we have a group departmental meeting and we discuss the patients as a group. 11.00am in my diary I have a meeting with two of my colleagues. I don't remember the nature of the purpose of that meeting but I know I had the meeting, it usually takes a long time to get them to agree on a time.

Ah hmm?---And then I went to a, my rooms thereafter.

Now - - -?---I started at 1.00pm.

30 Could you help us where your rooms that you refer to there are located physically I mean?---Yes, so the, the offices are located down the bottom end of the hospital near the Pacific Highway and the rooms are located at the top end, actually in the private hospital on level 4, suite 9, level 4.

All right. Now, where you tell us on 16 February you were consulting with patients between 1.00pm and 5.00pm approximately, at which rooms was, was that?---That was up at the specialist unit, the only place that I would have been conducting these, these consultations and it actually looks like it was 12.00pm that day.

40 I see. But that's level 4 on the, in the private hospital?---Yes.

Right. Now, on 29 May, again by reference to your diary, could you just run us through that day please?---So my usual practice on a Friday is to see any private patients before 7.30am, at 7.30am I have a, I run a multi-disciplinary meeting in lung cancer that runs 'til 8.30. The patients would be seen in the private hospital, the meeting would be conducted in the offices near the Pacific Highway and then I'd go back up to the private hospital to start rooms, in this case at 10.00.

And that would continue, and that continued until when?---Well, on this particular day it looks like it continued at 3.00pm. And I was on call that week and the usual practice is to go back to the ward which is in the public hospital and have a meeting with my registrar who will be conducting the ward round on the weekend and do a wrap-up of who's sick and who's not.

10 Now, in paragraph 8 of your second statement you tell us that no female by the name of Sandra or Michelle Lazarus had an appointment with you on either of those days and that's based I gather on your diary entries for the day, no scheduled appointment was made with either of them?---No scheduled appointment, I also asked my secretary if she could remember it and I certainly had no personal recollection of it.

Now, doctor, it's been suggested in evidence in this inquiry that on the first of two occasions we're concerned with, 16 February, Ms Sandra Lazarus came to see you in your rooms in the private hospital. It's been suggested that she approached you and had a conversation with you. She handed you the five vouchers with the invoices attached, she, it's suggested that she 20 informed you that your supervisor was Professor Ross Smith and just pausing there, did you know Professor Ross Smith in February 2009?---I've known Professor Ross Smith for a long time.

All right. But the suggestion is then that you were seen to be looking through the pages that had been provided to you and you were seen to have signed those pages. What do you say to that?---Well, I cannot recall having that meeting. I also asked my practice manager whether she could recall, she couldn't and I can tell you my practice manager wouldn't let many people through the door that are unrecognisable.

30 Mmm. Now, just a little bit more detail if I may. And, Commissioner, I'm at the bottom of page 486 of the transcript and over the page. And, doctor, that's a reference for the Commissioner. You won't find it in the witness box there. But what I want to suggest is that during this meeting on 16 February, you were seated at your desk, Ms Lazarus sat where patients sit in your, in your office, you were seen to go through all of the vouchers and the invoices. You asked her who her supervisor was. She responded by referring to Professor Smith. And that you said this to her, and just let me put it very clearly to you, it's suggested that you said, after being shown the 40 vouchers, and I'm at the top of page 487, Commissioner, you said, "Okay, that's fine. I am a delegated person to sign this." And you were then seen to proceed to sign the vouchers. What do you say to that?---Well, there's a couple of things that I find very unusual and make me think that I wouldn't have done that. Firstly that I have no record of her attendance in my rooms. She would have had to interrupt patients, and that's most unusual. Secondly, if these were given to me in person face-to-face I would have asked what was it about, I would have recognised the cervical cancer screening and I certainly would not have recognised a number off the top of

my head and I wouldn't have known if I was a delegated officer or not for that particular cost centre number. All I could comment on was as a head of department.

Mmm.

THE COMMISSIONER: But you're a delegated person to sign?---Only if the correct number is there and if it's attributable to the Department of Medical Oncology.

10

MR ALEXIS: Because I think you've already told us it wouldn't have been apparent just by looking at the number whether that was your number, when I say your number, your department's number or the department, the number of a different department?---That's correct. And that's why I don't feel I would have made a statement such as that.

20

Mmm?---I would have also observed that it's for cervical cancer and I would immediately make the connection, what's that got to do with Professor Ross Smith, because Professor Ross Smith is not a gynaecologic surgeon, he's a general and upper-gastrointestinal surgeon.

30

Mmm. Now, a further suggestion has been made that on the second occasion in May that the vouchers and the invoices were left with your secretary, I withdraw that, I'm sorry, were left with your receptionist and, because you were apparently busy, and that you were shown the vouchers, asked to sign them by your receptionist or by your secretary, the suggestion seems to include both, and that having done so, they were returned to your receptionist or secretary and they were then passed on by them to Ms Lazarus. What do you say about that?---I don't recall the events preceding, the events to have occurred such as that. As I said, on 29 May I would not have gone back to my department. My secretary has no recollection of doing such a thing and I don't know who you're referring to in terms of receptionist. There are other ladies who are secretaries for other colleagues in the department but I don't recall them either.

40

Now, in this, on the screen in front of you, can we get up page 488, please, of the transcript. Page 488. And there's just a passage I want you to read to yourself if you'd be good enough, Dr Pavlakis. And can I indicate this is one of my last questions. If you could look at the transcript, see where there's a ten on the page?---Yes.

On the left-hand side. And you see there's a question there, "And when speaking to Dr Pavlakis on the first occasion", and you can take it from me, sir, that's the February occasion, "Did he ask you any questions about why it was that you were screening for cervical cancer using the Medex device?" And you see the answer, "No, he didn't?" And then what I'd like you to look at and read is the next question and answer down to about line 31 and

just let me know when you've read that. Take your time. I wish to ask you a question about it?---Right. It doesn't make a lot of sense.

Well, just get to the reference to 600 and then I'll ask you a question about it.

THE COMMISSIONER: 600?

10 MR ALEXIS: At the end of that passage?---I don't know where that number came from.

Yes. Well, just picking the essence out of that passage we see that there seems to be a reference to a number of things, an explanation about the clinic, a reference to patients with prostate cancer, post-biopsy, biopsies actually carried out and so on and so forth, reference to six months and reference to 600. Now, what do you say about the suggestion that a conversation, the essential content of which is set out in that passage that I've taken you to, occurred on 16 February, 2009, in your consulting rooms in the private hospital?---I don't believe I had any such conversation.
20 There's a number of inconsistencies. First thing, this is about a device for screening for prostate cancer, it relates to patients early in their natural history, in their diagnosis. We only treat patients quite advanced with prostate cancer. That would be perhaps applicable to a urology clinic but not to a medical oncology clinic. We certainly wouldn't see 600 patients with prostate cancer in six months and we wouldn't, I wouldn't be game to pluck a number like that out of the, out of the air.

If you just, just scroll down every so slightly to line 40 and you'll see that Ms Lazarus in this evidence confirms that she was conveying to the
30 Commission the content of the conversation we had with you. You see she said, "Yeah, that's right." Now, just read the next passage ending with the word, joke, and I just want to ask you a question about that passage?---The paragraph just to do with the joke?

Yes, down to line 40, if you would?---Yes, I've seen that.

Thank you. And do you recall having any conversation culminating in a joke as is referred to in that passage, with Ms Lazarus?---Well, I don't recall a conversation so I don't know why, I cannot, I cannot recall that.
40

All right. Yes. Thank you. Now one final matter, if I may, Dr Pavlakis. In January or May 2009, had you heard of a company known as Clinical and Medical Informatics Consultants?---No.

Had you heard of a company called Wish Consulting Pty Limited?---No.

And had you heard of a company called Complete Health and Medicine?
---No.

Yes, thank you, doctor. That's all I wish to ask you. Oh, I do, yeah, I need to tender those vouchers. And perhaps- - -

THE COMMISSIONER: Well, you can do that, can we not do that after lunch?

MR ALEXIS: Yes, we can.

10 MS SOARS: I just, excuse me, Commissioner, if I could have access to the original vouchers that have been shown?

THE COMMISSIONER: Yes, you may.

MS SOARS: If I could just have one moment to take instructions, but I don't need an adjournment. Thank you, Commissioner. Dr Pavlakis, my name is Julie Soars and I'm a barrister for Sandra Lazarus. Do you have a clear recollection of the events that you're referring to in your two statements?---(NO AUDIBLE REPLY)

20 THE COMMISSIONER: That's very broad.

MS SOARS: I wanted to start broad and then get a bit more narrow. No?

THE COMMISSIONER: No.

MS SOARS: Right. Can I take you to paragraph 22 of your first statement. Can you tell me on what date you say that telephone conversation took place?---I cannot recall the specific date.

30 And- - -

THE COMMISSIONER: Do you recall the month?---Not really. I don't, don't wish to- - -

The year?---It was the year, well, it was the year before the events of the signatures, towards the end of the year.

THE COMMISSIONER: That's the signatures on the vouchers?---On the vouchers, 2008.

40

MS SOARS; Towards the end of 2008 is your best recollection: ---Approximately.

And is it possible that you've confused this telephone conversation with a personal meeting you had with Sandra Lazarus?---I don't believe so.

Well is there any basis for a clear recollection it was a telephone conversation?---Yes, I do remember being at the desk next to my secretary

and I cannot recall whether the conversation, the phone call came through via my secretary and I happened to be there at the time or there was a message to call back. But I remember actually having the conversation at the desk next to my secretary on the hop. And it was a very, it wasn't a very long conversation. And the things that stick to mind was Gil Burton, cervical cancer, screening type study, a post-graduate fellow type, a PhD.

I put it to you Dr Pavlakis, that that conversation didn't occur. That you had a meeting with my client on 16 February, 2009?---I disagree.

10

You've given some evidence about a conversation with Dr Back, which is referred to in paragraph 38 of your first statement?---Yes.

Did you have a conversation with Dr Back about the things that you are discussing in that paragraph?---Dr Back, my recollection of this conversation was Dr Back referring him having signed some documents and basically referring to me to look for the, for the documents in the pigeon hole.

20

So he referred to documents being in your pigeon hole. Is that correct? ---That's how I remember it.

And did you look for those documents?---(not transcribable) and when we had the conversation was in the morning of when I'd come back from leave. There was a pile of documents in my, in my, in my inbox. And I have a vague recollection of the top of a document and I don't know why, maybe I pulled them out to have a look, but I (not transcribable) I did at the time that he mentioned that.

30

So is it the case that it's your best recollection that you did eventually go and have a look in the pigeon hole and find some documents that he'd left for you?---I'm certain I looked in the pigeon hole. I'm not certain that I actually looked at the documents completely.

What does, could you just explain what that means, please, Dr Pavlakis? ---Well - - -

That you may not have read them thoroughly. Is that what you're saying? ---Yes.

40

And you say in your statement, the second last line, second last sentence, sorry, that you believe Dr Back showed you one voucher. Can you see that?---Yes.

Is that a physical showing of the voucher or - - -?---No, I think I, the way it's worded is probably incorrect. I mean he was referring to one.

THE COMMISSIONER: That should read I believe that Dr Back only referred to one?---Yes.

MS SOARS: And just so I've got this right, you, your evidence is is it, that you went to the pigeon hole. You think you did see these vouchers, but you did not read them thoroughly. Is that correct?---I think I remember seeing one voucher.

10 One voucher?---And I didn't read them thoroughly because the context was that he'd signed on behalf of myself as a delegate and as I said, under the circumstances having to prioritise things to focus on and not focus on in the short time. I knew that he cannot sign as a delegate for myself and thought that that would be picked up.

In reading in a quick manner, I think you've said there was nothing you picked up in relation to the document you looked at at that time that was unusual to you?---As I said, I didn't really, I glanced at it, I didn't see, I saw that the signature was on behalf of and focused on that rather than the detail.

20 So is there a possibility that you might have signed a document you can't now remember if you only glanced at it and didn't read it thoroughly?---No, no, I don't believe that in regards to this document I signed anything and only Dr Back signed.

I'm just asking you in general terms is there a possibility that you, you may sign documents and not afterwards recall the content of them because you haven't read them thoroughly, you've just read them quickly?---Well there's always a possibility of that sort of thing.

30 Okay.

THE COMMISSIONER: That is there is always a possibility of that sort of thing. (not transcribable) I understand that. But these documents you pointed to a number of factors in them which really, as I understand your evidence, are, are barriers to your signing the document?---That's correct.

40 MS SOARS: Counsel assisting took you through a number of the vouchers and you made comment on the signatures and in respect of a couple of them I have a note that you said that you weren't sure in relation to some of them. And I just want to take you to those. The first one's at page 269 of Exhibit 1. What is it about that signature that makes you not sure?---Well it's the N and the P not being separated, which is the main fundamental difference with my signature. As far as the signature alone is concerned, the documents, and I think I've already expressed, there are irregularities with.

Yes. And just while I've got that document there, you can see that actually there's quite a compressed space in which you, you're to sign in that signature box isn't there?---Yes.

And there's a possibility isn't there that signing in a compressed space you might actually sign slightly differently to your usual signature?---I sign in a compressed space on the back of my credit card and it's always exactly the same.

Do you accept that there's a possibility that in a compressed space you might actually run your signature together, with the N and the P?---I can't categorically say that could never happen.

10

Yes, thank you. As these don't have Exhibit numbers, Commissioner, I'll just identify them with the date on the voucher.

THE COMMISSIONER: Yes, thank you.

MS SOARS: I 'm going to show you a bundle of the original non-order vouchers dated 16 February, 2009.

THE COMMISSIONER: Are the copies not in the, in Exhibit 1?

20

MS SOARS: The copies are but I want to show him the original?

THE COMMISSIONER: Yes, well, perhaps you could just identify it by reference to Exhibit 1.

According to my note the ones of 16 February are at pages 265, 267, 269, 271 and 273, 273 of Exhibit 1.

30

THE COMMISSIONER: Yes. And when you're referring to particular ones I suppose that's difficult, is it, because there is nothing to identify the one from the other - - -

MR ALEXIS: The invoice numbers are different.

THE COMMISSIONER: The invoice number, yes, so you can just refer to the invoice number.

MS SOARS: I don't want to take up extra time, Commissioner, but I may need to do this one at a time or - - -

40

THE COMMISSIONER: Yes.

MS SOARS: And that might be the way to do it and I can then refer by invoice number.

THE COMMISSIONER: Yes. Just refer to the invoice number and we'll all know what you are doing.

MS SOARS: All right. Thank you, Commissioner.

THE COMMISSIONER: I mean, the first one is, the first one in the white book, in Exhibit 1 is 1-0-2-1-5-1-0-0-8.

MS SOARS: Okay. Maybe if I can do this, Commissioner, is give him the bundle and then go by the exhibit and ask him to find the invoice number and then ask him a questions.

10 THE COMMISSIONER: Whatever you wish.

MS SOARS: As, as, as you please. Could I show the witness the bundle of non-order vouchers signed on 16 February, 2009.

Could you find the one for me please, Dr Pavlakis, which has invoice number ending 1-5-1-0-0-8?---Yes.

20 I suggest to you that that is your signature on the non-order voucher which is, a copy of which is at page 265?---Well, it, it has a similarity but I can't categorically say that it is.

And you've given a number of factors to individual invoices and generally as to, sorry, individual non-order vouchers and other matters generally as to why there may be some doubt but - - -

THE COMMISSIONER: No, not as to why there may be some doubt, as to why he doesn't think he signed it.

30 MS SOARS: As to why you don't think you signed it. But can you on oath deny that that is your signature on that non-order voucher?

MS FURNESS: He's answered that question, Commissioner (not transcribable) three times by now.

MS SOARS: There's nothing wrong in what I'm doing in putting that question more than once but I don't accept I've asked it specifically?---I, I - - -

40 MS FURNESS: Well, he's answered it three times.

THE COMMISSIONER: Well, let him answer it again?---The signature itself I cannot, cannot categorically say that it's not mine but I cannot see why I would have signed this document.

MS SOARS: And in relation to the next non-order voucher relating to invoice 191008 at page 267 of Exhibit 1, do you have that non-order voucher?---Yes.

Is it the same position in relation to that non-order voucher?---That has a similar appearance to the previous one.

THE COMMISSIONER: So your evidence in regard to this invoice, this voucher is the same as that regarding the previous one?---Yes.

MS SOARS: And in relation to the non-order voucher in respect of invoice 201008 which is at page 269 of the Exhibit 1, do you have that?---Yes.

10 Is your evidence the same in relation to that non-order voucher?---Yes.

And in relation to the non-order voucher at page 271 of Exhibit 1 which relates to invoice number 271008 is your evidence the same? Do you have that?---Yes.

Yes. Is your evidence the same?---Yes.

And in relation to the non-voucher in respect of invoice number 0411, sorry, 041108 which is at page 273 of Exhibit 1 is your evidence the same?
20 ---Looks a bit more different but, yes, evidence is the same.

And just to summarise it you can't say that it's not your signature but you can't understand why you would've signed it?---I cannot and as I said there also is a major inconsistency in the N and the P.

Thank you.

THE COMMISSIONER: And you don't remember signing it?---I don't remember signing it. And the key factor for me is the cervical cancer
30 knowing that we don't participate in any such studies.

MS SOARS: The next bundle is the seven non-order vouchers which bear a date 29 May, 2009.

THE COMMISSIONER: And where are they in the - - -?

MS SOARS: Yes, Commissioner, they're at 278 - - -

THE COMMISSIONER: Yes, thank you.
40

MS SOARS: - - - 280, 282, 284, 286.

THE COMMISSIONER: Well, I don't think you're going to ask any different questions but perhaps if Dr Pavlakis can look at all of those and you can ask him.

MS SOARS: Yes, whether - - -

THE COMMISSIONER: - - - in relation to all of them in the same way.

MS SOARS: I will, Commissioner, if that's convenient.

THE COMMISSIONER: So would you look at all of them.

MS SOARS: Can I take it that all of them fall into the same category in relation to your recollection of whether you might've signed those non-order vouchers or should I deal with any of them separately?---No, they
10 don't fall into the same category.

Could you explain?---Well, there's two signed in black that are a little, far more removed from the previous ones to make me feel more certain that they're unrelated to me. And then the ones signed in blue I would say these are definitely not my signature unequivocally.

Could you just identify the invoice numbers on the two you say were signed in black?---171108, 221208.

20 Just wanting to put the page numbers on the transcript for those if I can.

THE COMMISSIONER: 280 is the one. And 208 is 282.

MS SOARS: The other one 171108.

THE COMMISSIONER: Is 280.

MS SOARS: 280, thank you, Commissioner. And Dr Pavlakis, I just, I put it to you in relation to that bundle of non-order vouchers signed on 29 May,
30 2009 that that is your signature on each of those non-order vouchers?---My statement would be similar to before. You're referring to just these two that I've identified?

No, all of them (not transcribable)?---No, I disagree.

Thank you, Commissioner.

THE COMMISSIONER: Yes, thank you. Mr Hogan?

40 MR HOGAN: I have no questions of Dr Pavlakis.

THE COMMISSIONER: Ms Furness?

MS FURNESS: Just one, Commissioner. Doctor, was it your practice in 2009 when signing requisitions to read them before you signed them?---Yes.

Thank you, Commissioner.

THE COMMISSIONER: Mr Alexis?

MR ALEXIS: Nothing further for Dr Pavlakis if he can be excused from further attendance thank you, Commissioner.

THE COMMISSIONER: Yes. My apologies for keeping you?---Thank you.

Thank you for your evidence?---You're very welcome.

10

THE WITNESS EXCUSED

[1.45pm]

THE COMMISSIONER: We have to be back at 2.00?

MR ALEXIS: It's proposed to do some technology testing which I think is to take place momentarily and subject to that then it's proposed to resume at 2 o'clock or shortly after. And in the meantime - - -

20

THE COMMISSIONER: I think that we all need a bit of a break.

MR ALEXIS: Yes, of course. Could I retrieve the original vouchers that were the subject of that examination and I'll have them arranged so that they can be tendered at a convenient time this afternoon.

THE COMMISSIONER: If my associate could simply be informed when the parties are ready and we will start then.

30

LUNCHEON ADJOURNMENT

[1.46pm]