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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 MARCH 2011

AT 2.03PM

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

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

MR ALEXIS: Thank you, Commissioner.

<SANDRA SYNTHIA LAZARUS, on former oath

[2.03pm]

MR ALEXIS: Ms Lazarus, if we can go in Exhibit 1 back to your email of 17 June, at page 100?---Yes, that's correct. Yep.

10 Now Ms Lazarus, I know you have told me in your evidence many times - -
-?---Ah hmm.

- - - that you had an understanding that Mr Neiron had deposited money with the hospital prior to the date of this email. But if I could ask you just to accept for the purpose of a couple of questions that you be wrong about that and in fact the email represents that no funds had been deposited with the hospital by 17 June. Do you understand what I'm asking you to assume?
---That's incorrect and (not transcribable).

20 I know it is and you've told me many times. But if we were to just accept for the purpose of discussion that the proper conclusion to be drawn from your email of 17 June is that the funds were to be transferred before the trials commenced. Now if you just make that assumption for me, does it follow that in relation to all of the invoices that were issued by you on behalf of each of the companies in March and April and May and the Wish Consulting invoice of 12 June were issued when no funds had been deposited into the hospital.

30 MS SOARS: I object. Commissioner, I don't, I don't submit that it's a fair question to ask her to assume something contrary to her evidence and then make an admission.

THE COMMISSIONER: Why not?

MS SOARS: I just don't, I don't accept it's a fair question, Commissioner. It's a matter for submission based on what, what, what construction my learned friend may wish to make of the evidence that's been given as to whether or not that conclusion can be drawn. He's asking Ms Lazarus to effectively accept his submissions or based on assumptions.

40

THE COMMISSIONER: (not transcribable) I understand your - - -

MS SOARS: Thank you, Commissioner.

THE COMMISSIONER: I think there is merit in that objection.

MR ALEXIS: Thank you, Commissioner, if that's your view I will move on. Now in relation to the invoices that were generated by you and rendered

to the Royal Hospital for Women, I wish to suggest to you that apart from your own evidence, there is no documentary material to indicate that you actually carried out even one screening test or examination test on any patient. Do you accept that?---That's incorrect.

Well beyond your say so, Ms Lazarus, can you point me to any document in this inquiry which records or relates to you actually seeing a patient at the Royal Hospital for Women and undertaking the Medex device testing on that patient at that hospital?---Are you saying a patient, I believe evidence
10 was given by nurse Ellen Barlow and - - -

Did you not understand the reference in my question to documentary material?---I did.

MS SOARS: I object. Ms Barlow gave her evidence by statement and gave that evidence in her statement that she referred patients to Ms Lazarus.

THE WITNESS: And on one - - -

20 THE COMMISSIONER: Yes, but that doesn't, that's not a legitimate objection to the question. The question is capable of being answered.

MR ALEXIS: Let me ask you that question again, Ms Lazarus?---Okay.

My question is this, there is not one scrap of paper in this inquiry, leaving aside Ms Barlow's written statement, and I'll come to that - - -?---Yes.

- - - which records or relates to the conduct by you of any examination or any screening test performed on any patient at the Royal Hospital for
30 Women using the Medex device is there?---That's incorrect.

Well what is the document or what is the scrap of paper which provides you with some support on that subject?---There were two white folders that were located at Royal Women's Hospital.

THE COMMISSIONER: In this inquiry, Ms Lazarus. Those, those white folders, their existence depends on your say so. And you have been asked, the question that you've been asked concerns documents that have been produced to this inquiry?---Okay. Documentation would be the
40 authorisation of my payment regardless of the fact the signatures have been denied.

MR ALEXIS: But Ms Lazarus, none of those documents, whether they be requisitions or invoices demonstrate that you actually examined or tested a patient with the Medex device do they?---Why would they be signing the requisitions for my payments had I not conducted those tests? I'm sorry, it's just very unclear.

Ms Lazarus, they're the documents that you prepared. Now independently of any document that you prepared there is nothing which indicates beyond your say so that you actually carried out a single examination of any patient is there?

MS SOARS: I object.

THE WITNESS: No.

10 MS SOARS: I object to the word examination. Commissioner, there's no evidence of any patient being examined. (not transcribable)

MR ALEXIS: And that point has been made before and it's my slip and if my learned can suggest a better word I'm happy to adopt it.

MS SOARS: Tested.

MR ALEXIS: Tested. All right. Thank you. There's nothing in this inquiry, Ms Lazarus, beyond your word that you conducted any test on any
20 patient at the Royal Hospital for Women is there?---No, that's incorrect. There's again in reference to the minutes of the meeting which are in Exhibit 1, there is a mention, independent of the Commission or in this investigation that these files and patients were examined and these files did exist. And this is completely independent of me.
All right. So beyond that, and I'm going to come to that very subject in a minute, but beyond what's contained in that minute of interview with you there is nothing beyond your say-so relating to any testing of any patient at Royal Women's Hospital, is there?---Well, I don't have my files so I cannot answer that I'm sorry.

30 I suppose, I suppose you might refer me to the evidence from your sister Jessica in relation to the performance of testing on patients at the hospital as supporting your evidence in this inquiry?---That's correct (not transcribable)

But beyond her evidence there's nothing is there apart from your say-so?
---That would be your, your statement not mine.

Well, I'm just giving you the opportunity to tell me whether I've missed anything?---Well, if I had my files and the investigators actually followed
40 the Commissioner's instructions to accompany me to these hospitals and have actually looked for these files I would have had ample evidence. I'm sorry, I cannot agree with you there.

But you went to the Royal Hospital for Women in early 2009 looking for those white folders that you've told us about many times, haven't you?
---No, that's incorrect, no, I didn't.

You told Ms Maffullo when she spoke to you on the telephone in February, 2009 that you went to the hospital and that the folders that you had said in the interview existed could not be located?---That's incorrect.

10 You told her that, didn't you?---That's incorrect, that's Ms Maffullo's account and I do not remember that conversation. Not only that I don't believe I returned to the Royal Hospital for Women, not only that, I've actually made, because the instructions weren't followed, the Commissioner's last instructions weren't followed I actually took steps to locate those files once again and I believe the conversation of the telephone's actually part of Neville Hacker's statement.

Now by June 2008 you'd had a falling out with Mr Neiron hadn't you?
---That's incorrect.

You see in June 2008 Mr Neiron expressed some concerns to you about problems that were emerging in relation to the work that you'd done at Strathfield and St Vincent's, didn't he?---That would be incorrect.

20 So he had concerns because he had discovered that the two people that had signed those letters that the Commissioner asked you questions about before lunch had been signed by people who didn't work at the hospital?---Well, that, he would know better than I would, I'm sorry.

Yeah. But he found that out and he told you that he wasn't at all happy with what you'd been doing, didn't he?---That's absolutely incorrect and there's actually emails to support that.

30 Well, let me show you an email, Exhibit 48 and the email when it's found will record the email that he sent to you on 30 June, 2008 and do you see in that email he says, "Dear Sandra, I refer to our phone conversation today and the news that you have told me," and then he asks you "to advise as follows." Do you see that?---Yes, just one second, I haven't through it .

And do you see in paragraph 1 he refers to the end of the financial year and the fact that he needs to proceed proceeds with company finance projections and expenses?---Sorry, I'm still reading the email.

40 Well, do you see in paragraph 2 he says, "I have enormous pressure from the finance management Sydvat as until today no official (not transcribable) as provided regarding the publications of the clinical trials," do you see that?---Yes.

And then in paragraph 3 refers to delay which he expresses very clearly as over three months on publications, no official result for prostate cancer, that relates to St Vincent's doesn't it?---Yes, that'd be correct, yes.

And he tells you that he's, that's creating extremely complicated situations which in the results of it we lost our and your credibility all over, do you see that?---Yes, that's correct, yes.

So he's telling you there quite clearly, isn't he, that he's troubled because there's a loss of credibility, both yours and his?---I believe so, the credibility that he sabotaged on his own I believe because I can show you an email that dates May 2009 - - -

10 Ms Lazarus, whatever you might think it is plain from this email of 30 June, 2008 that Mr Neiron is telling you in crystal-clear terms that because of delays both his and your credibility is being lost?---Well, that's just perhaps to intimidate me in some way or get me to move faster on publications or move faster in trials, that's about it.

THE COMMISSIONER: You're not being asked whether he is right. It has been put to you that this is an example- - ?---Ah hmm.

20 - - -of the breakdown in the relationship between you and Mr Neiron that appears to have occurred at about this time?---No, there was never a breakdown. That's what I'm trying to explain to you. Regardless of this email, it's more of a threatening email, where I sit from it's more of a threatening email to me to hurry things along.

MR ALEXIS: But, Ms Lazarus, it's obvious in paragraph 4, isn't it, that he's telling you that he's been forced to establish some dialogue with the clinical conductors as well as the clinical management to clarify positions and to try and rectify reputation. Do you see that?---That's correct.

30 Because he's telling you there that he would regards there to have been a loss of reputation because of delay?---That's correct.

Mmm?---And he sent about half a dozen of these emails over a period of perhaps two years which I have examples of, and the next day he's very merry again.

40 Is he? See, what I suggest to you is that this is an example, and perhaps Exhibit 49 is a further example, and perhaps in fairness I will show you that email as well?---Yes, please.

That illustrates that by the end of the 2008 financial year, you and Mr Neiron had had a falling out?---That's incorrect.

Well, have a look at Exhibit 49?---I am looking at that. I'm sorry, again I do not recall- - -

Well, you see this is a further email of 30 June 2008 where he says, "Dear Sandra. The following just hit me and I have no facts, no facts to reply?"

---Ah hmm.

“It seems that should we not response ASAP we have to face some hostile parties.” Do you see that?---Yes, that’s correct.

Well, did you have an understanding of who the hostility was coming from at the end of June 2008?---No, I’m sorry, I’m sorry, I don’t recall this email.

10 See, what I want to suggest to you is that this was the start of your relationship with Mr Neiron unravelling, because of the serious loss to reputation and the hostility that he was being subject to from other parties?
---That would be completely incorrect on your part.

And I want to suggest to you that in light of that and in the events that subsequently occurred, the idea that he continue to support and pay money to hospitals for clinical trials is ridiculous?---I’m sorry, that’s a completely incorrect statement.

20 Completely, is it?---Yes, that’s correct.

Now, can I ask you about this then. And would you go, please, to the examination bundle Exhibit 1 at page 108. And do you see at 108- - -?
---I’m not there yet. 108 is a - - -

Do you see that to be an invoice of 14 May in relation to 50 examination tests?---Sorry, one second. Yes, that’s correct.

30 And if you turn now to 112, do you see that’s a further invoice for a further 50 examination tests of 25 June, 2008?---Yes, that’s correct.

And finally if you could turn to 116, which again relates to a further 50 examination tests in the invoice of 5 July, 2008?---That’s correct.

And clearly enough, if we add the sum of those tests we get 150 tests by 5 July. Is that so?---That’s, I’ve already given evidence about- - -

Well, I know that, but is the arithmetic that I’ve just put to you correct?
---Um, the arithmetic, yes, but the invoices, like I said- - -

40 I know that. At transcript 79.25 on the last occasion you pointed out to us that one shouldn’t divide the amount of the invoice sum by 50 because it’s an error and in fact each invoice relating to 50 tests in fact related to 10 tests- - -?---That’s correct.

- - -because you were charging, according to your agreement with Mr Neiron, \$1,500 a test?---That’s correct.

And what I want to suggest to you is that your evidence concerning that is completely false?---That would be incorrect on your part.

See, what you said to The Commission on the last occasion is, in relation to each of these invoices, and this is at transcript 79.25, you said, "I've written 50 but it should actually be, like, it should actually say 10 patients." And what I want to suggest to you is that your evidence which seeks to correct what is apparent on the face of these invoices is completely false?---No, that would be incorrect on your part.

10

And see what I want to suggest is that when you prepared these invoices you intended each invoice to represent the conduct of 50 tests at \$300 per test?---If that was the case the people authorising would have realised that 50 tests have been completed so hence there's another reason why there's evidence of my actually carrying out these 50 tests regardless of the maths.

Could you attend, could you attend to my question, please?---I am.

20 When you prepared the three invoices that I've just taken you to 108, 112 and 116, you intended the charge of \$15,000 on each of those invoices to represent 50 tests at \$300 a test didn't you?---No, that would be incorrect. I did, like I gave evidence before, I was following how to fill out a requisition and yes, I've made the error and I've actually admitted to that error.

Well you've admitted to the error because it helps your case?---No, that's not the case.

30 Because when you gave evidence to the Commissioner during the compulsory examination you told him that the 50 tests meant 50 tests didn't you?---No, I didn't. Not that I can recall.

And what I want to suggest to you - - -?---I'm sorry you'll have to (not transcribable)

40 - - - is that the reason why you've resiled from that evidence that you gave on a previous occasion, and I'll make good the proposition that you did so in a moment, you resiled from it because you heard me open this inquiry on 14 February and say to the Commissioner that on the face of these invoices to the Royal Hospital for Women, if one looks at the 50 tests on each invoice, the sum equals 450 tests?---That's, I'm sorry I - - -

But you heard me open the inquiry and putting that proposition didn't you? ---I'm sorry, I can't recall your words either. I do apologise.

Well you heard me say that if you hadn't thought of it previously, you must have realised that the idea of conducting 450 screening tests on patients at the Royal Hospital for Women with prospective cervical cancer would be physically impossible?---That's incorrect. Your statement is incorrect.

And that's why you resiled from the material that's apparent on the face of the invoice of 50 tests because you knew that on any view you wouldn't be able to justify 450 tests?---I'm sorry, that's again very incorrect and I believe patients with abnormal pap smears, they are about 600 every six months. Physically for someone to screen that is impossible, but in terms of numbers it is very possible. It's an error made by me and hence corrected. And which I've openly admitted to.

10 Well let's examine your evidence about the error and let's go to the requisition at page 107?---Yes.

And do you see that in the column headed quantity you've written 50?
---That's correct. I've already given evidence - - -

And, well I know you have madam, but please just answer my questions?
---I'm sorry, yes.

20 Do you see in the next column headed description you've written 50 again?
---That's correct.

And do you see under the heading unit cost you've written 330?---Ah hmm.

Now what I wish to suggest to you is that when you prepared the invoice you had calculated a unit cost per screening test of \$300. You multiply \$300 by 50 to derive \$15,000. You then added the GST to get 16,500. That's what you did isn't it?---No, that's incorrect.

30 Well why is it incorrect? Because it's obvious from the face of the requisition that you allocated a unit cost of \$330 including GST?---No, that's incorrect because - - -

Well why is it incorrect?---Well I'm just going to explain that to you. Because the time and I've given evidence accordingly, that 50 tests were on my mind and hence I did that, I have openly said I've made an error in terms of the requisition. I made an error in terms of the invoice because the two were produced together or at the same time or - - -

40 THE COMMISSIONER: What is your explanation for making the error? Why did you make the error?---It's just an error that was made and hence corrected.

But why did you make the error? What, what is there, what could possibly have been on your mind - - -?---The 50 tests that I had completed. That's what I'm trying to say to you.

MR ALEXIS: But even if that be true, Ms Lazarus - - -?---Ah hmm.

- - - that doesn't explain why you actually wrote under your hand 330.00 under the unit cost column on page 107?---That's correct. That's what I've already given evidence about.

Well you haven't actually?---Well I am - - -

The only explanation for it is that you applied your mind and consciously wrote on the requisition 50 tests, described again as 50 cervical cancer examination screening tests?---Ah hmm.

10

And wrote 330 as indicating the unit cost of each test including GST?
---That would be incorrect.

Well, how can it be incorrect, you've written it on the page?---Yes, well, like I said, I had- - -

Well, how could you make a mistake about it when you've written it like that and when one multiplies 50 by 330 one gets 16,500?---Yeah, definitely. Oh, I'm not denying what's, what's there but I'm just telling you the error that I've made. It's not a conscious error like you're suggesting.

20

How can it not be a conscious error, Ms Lazarus, when you've written it clearly enough on page 107 of your- - -?---I'm sorry, I've openly admitted to the error. What you're suggesting is completely incorrect.

THE COMMISSIONER: But if the unit cost was fifteen hundred - - -?
---Yes.

- - -how can you possibly write 330 by mistake?---It was just silly maths that I'm doing in my head. I don't know.

30

THE COMMISSIONER: You must know that your agreement was fifteen hundred?---Yes, that's correct.

So when you know that you've an agreement whereby you were going to get charged, you were going to get, you were going to receive fifteen hundred dollars - - -?---Ah hmm.

- - -how do you come to write \$300 instead of fifteen hundred dollars?

40

---Like I said, it's just in terms of the 50 and I have done silly maths and I've written that. It's an error. I'm freely admitting to the error. I'm sorry, it's not a conscious error.

You may be admitting to the error but you have to, you'll have to persuade me that it was an error and at the moment I don't understand how you can come to an agreement with Mr Neiron that you charge fifteen hundred dollars per test, and that's nothing to do with mathematics and it's nothing- - -?---Ah hmm.

- - -to do with being dyslexic and it's nothing to do with calculations, it's a straight agreement between you- - -?---That's correct

- - -and Mr Neiron- - -?---Ah hmm.

- - -and where you know that you are being paid fifteen hundred dollars - - -?---That's correct.

10 - - - a test?---Yes.

And then you come to write on the requisition form \$330 per unit cost. Now, how does that happen? By what mysterious thought processes do you get from fifteen hundred dollars a unit, which you actually you say agreed with Mr Neiron, to write down 300?---I think that might be again, I'll need to provide documentation. I'll have to look at, it might have been the actual amount that Medex pays or someone pays, I'm not quite, what the Medex company pays for a Medex test, I'm not quite sure. I'm sorry, I just cannot recall. It was an error made by me and I've openly said that's an error made
20 by me. That's all I can get, I'm sorry, I cannot recall.

Are you suggesting that Medex might have to pay \$300 itself, that might cost, the test might cost Medex \$300?---It's not a suggestion, it's just something that's coming to mind in terms of memory, but I'm not sure. Again I cannot recall.

Are you suggesting that it would cost Medex \$300 and they would pay you fifteen hundred dollars?---That's not the suggestion I'm making. I'm just coming up from a number that's there. I'm trying to recall to the best of my
30 ability. Sorry, I just cannot recall.

MR ALEXIS: Now, if you look at the requisition on 111- --?---Yes.

- - -you'll see that you've represented the screening tests there referred to in precisely the same way, haven't you?---That's correct.

Quantity, 50, description, 50 screening test, unit costs, 330 including GST? ---Again, I've already given evidence in regards to that. It is the requisitions are one after the other, I have basically copied, unconsciously copied and
40 pasted all the way through.

THE COMMISSIONER: But this is, it's really difficult for me to understand this, Ms Lazarus, because this represents money in your pocket and what you charge- - -?---Yes.

- - -is what you get?---That's correct.

And it must, if you were going to get fifteen hundred dollars a test, that must have been quite a good deal for you?---That included all the administration. It's not just carrying out the test.

But it's nothing like what you'd earned before ever?---Oh, that's not correct.

Really?---Well, in terms, I was, when I worked with other companies in terms of carrying out their research, it wasn't full-time but it was around the same figure, because this was full-time, that's why elevated.

10

Well, so it would be the idea of fifteen hundred dollars was fixed in your mind?---Before in my previous position I was paid twelve.

Twelve hundred dollars a test?---Yes, for- - -

For, you did tests?---That was completely different research.

I see. So you're not comparing. Anyway, what I don't understand is where you agree with somebody that you're going to get fifteen hundred dollars a test- - -?---Ah hmm.

20

- - -you must do some mental arithmetic and work out what you're going to make a week or a month or a year?---That's not correct because it would be based on tests um, that are completed.

Yes, but you must have some idea of how many you're going to complete? ---Um, for based on previous research, when my availability is, I still wouldn't be able to calculate that, sorry. There would be a very rough idea in terms of- - -

30

But it must make a very rough calculation of money that you're going to earn from this?---I wouldn't be able to put that forward, sorry.

So that when you come and put down \$300 it's actually one fifth of what you've agreed. It's a huge reduction in your income?---Yes.

And are you saying that it doesn't occur to you, that you are actually short-changing yourself by twelve hundred dollars a test?---Well - - -

40 You, you do this not realising that you are writing down \$300 which is twelve hundred dollars less than what you've agreed with Mr Neiron? ---Like, I said, I took the 50 and I've done, and I've written that and I've made an error not realising that at that stage that's 150 patients.

Well, Ms Lazarus, you seem to me to be - - -?---So it's just an error.

- - - a pretty shrewd person - - -?---That's not, that's your assumption. It's a very inaccurate assumption - - -

- - - (not transcribable)?--- - - - based on what evidence, sorry? It's very incorrect and very personal for you to say that, it's very incorrect I'm sorry, very offensive.

Well, I regret that it's offensive, I don't think that calling someone a very shrewd person would be taken to be offensive, it's the kind - - -?---It is when they're sitting in the witness box.

10 It's the kind of judgment I'm required to make and I am - - -?---(not transcribable)

- - - giving you an opportunity of answering what might result in findings so I am saying to you that I, in the light of my assessment I find it really difficult to understand how you can agree with somebody that you're going to get fifteen hundred dollars a test but write down on the invoice, on the requisition form rather, that the price is \$300 a test and I, all that you can say to me is that that's an error but you can't explain to me how the error came about and that's what I'm trying, I'm giving you over and over again
20 the opportunity of explaining it?---Well, I've already explained and again it's an assumption made by you just like you just called me a person that's very shrewd so that's your assumption, I have given my evidence accordingly?

Well, it's not an assumption, it's an opinion?---An opinion, just like the opinion that you have of me so - - -

MR ALEXIS: Ms Lazarus, have a look at the further requisition on 115?
---Yes.

30 And you see that you've again referred to 50 tests twice and again the unit cost that we've been debating?---Yes, that's correct.

And again can I suggest to you that if as you could have this Commission accept your arrangement with Professor Hacker required money coming in from Mr Neiron and that same amount of money going out to you so that the hospital was not out of pocket?---That's correct.

40 The idea that as part of that arrangement Mr Neiron agreed to fifteen hundred dollars a test when under your own hand you've written \$300 a test is incredible?---I, I've given evidence to that and the five requisitions are in order, in sequence.

In fairness to you I'll give you one more opportunity to explain how you could possibly make that error in three requisitions which clearly record 50 tests at \$300 a test?---It's just an error that I've made.

Well, you keep telling us that but I'm giving you one more opportunity to provide an explanation as to why your claim to make an error now was in fact an error that you made then? How do you explain the making of the error then?---I'm sorry, I don't - - -

How do you explain, I'm going to give you one more opportunity - - -?---Ah
hmm.

10 - - - how do you explain making an error in July 2008 on these requisition
forms when you actually wrote down a unit cost of \$300 a test?---I'm sorry,
I have no explanation. I've made the error.

Now, I want to take you to some evidence that you gave during the
compulsory examination - - -?---Yes.

20 - - - in December last year and to accord you absolute fairness so that you're
not struggling by reading it on a computer screen I'm going to give you a
hard copy of the relevant pages with a copy for your, Commissioner and to
my learned friends and firstly I'd like to ask you to go to page 188 and
you'll see the pagination in the bottom right-hand corner and I'd like to take
you to line 10, do you see that, and again this is Ms Daly asking you some
questions on that occasion, is that so?---Yes, that's correct.

30 And you say that in relation to the requisitions that I've been asking you
about, she asked the question, "So why 50 marketing material?" And that's
a reference I think to the requisition on page 109 which records in terms,
"50 cervical cancer marketing material." All right. Now, she asked you
that question and you answered, "Oh, I have no idea what I've written. I
would have done 50 tests. I must have written 50 there." Do you see that?--
-That's correct.

And then the next question, if we go to the next requisition which is the
requisition at page 24?---Sorry, you've moved- - -

I'm back in the transcript at 188, madam, at line 20?---Well, you'll have to
go a little bit slower, sorry. I have to read each sentence twice.

40 If we go to the next requisition, I'm reading it with you, which is requisition
on page 24.

THE COMMISSIONER: That's line 20.

MR ALEXIS: And you see your answer, "I've written 50 everywhere." Do
you see that?---That's correct.

And that's a reference to the 50 references that I've just taken you though in
relation to these requisitions. And Ms Daly says, "You've written 50." And
then see your answer?---Yes.

“Yeah, because I must have completed 50 tests at that stage, unconsciously written 50 for both of them because I was filling out both.” Do you see that?---That’s correct, yes.

Now, there’s no suggestion of any error there about doing 50 tests or meaning by 50 in fact ten tests. No suggestion of that there, is there?
---Oh, again it suggests that I’ve made that error unconsciously and written 50 all over.

10

Oh, no, no. All you’re saying there is that you’ve, “Unconsciously written 50 for both of them because I was filling out both.” But there’s no suggestion there that when we look at 50 on the requisition we should understand that you only did 10. There’s no suggestion of that, is there?
---No, but it’s an admission to the 50 that’s the error, an unconscious error (not transcribable)

THE COMMISSIONER: You’re saying there’s an error about 50?---No. I just gave evidence to that, that the 50- - -

20

Are you saying that there is an error about 50?---There’s an error about the completion of this requisition in writing 50.

What should you have written?---I should have written 10 in terms of the um, tests and the money that I’m charging for on the invoice. But like I’ve given evidence in my private hearing as well, I had completed 50 tests and again before seeing this document I gave evidence again saying that 50 was in my mind, the tests that I had completed. That, for that reason, 50 carried through.

30

MR ALEXIS: Have a look at the transcript at page 190, Ms Lazarus, at line 10. And do you see that Ms Daly asked you there, “So you did 50 a month?” And you see the answer, “Roughly, yes.” And then you confirmed again, “Roughly.” Do you see that?---That’s correct. That’s based on the number of patients seen. Again very rough estimate, depending on when- - -

But Ms Lazarus, you’ve rendered monthly invoices starting in March and continuing through to July and your evidence about the number of tests, that is 50 a month, it was in reference to those monthly invoices, wasn’t it?
---No, I don’t think so. I think it’s the number of patients that I screen.

40

All right. Well, have a look then at page 191 of the transcript from about line 20?---Ah hmm.

And do you see the question, “How many in total tests did you do at the Royal Hospital for Women in this clinical trial in total?” And you’ve answered, “Should have been close to 200- - -?---That’s correct.

--but not 200 in total?"---That's correct.

"So the aim was to do 200 but you didn't reach?"---That's the 10 pilot--

And your answer, "The aim is to do 200." Do you see that?---Yes, that's correct.

10 And then if you drop down to line 36 or thereabouts, do you see the question starting, "Well, these invoices", do you see that?---That's correct. She's asked me the same question.

"Well, these invoices state 50 tests-- -?---Ah hmm.

Some of them don't say 50 but they are the same amount and they say test and we're going to assume that", and then you say, "I can understand." Then the question, "Why have you invoiced for 450 tests?" Now, just pausing there?---Sorry, where are you up to, line?

20 I'm up to line 41 on page 191?---Ah hmm.

Do you see the question, "Why have you invoiced for 450 tests?" Do you see that?---Ah hmm.

And you know, don't you, that that 450 is the result of multiplying 50 tests per invoices, per invoice by nine invoices, don't you?---That's correct. I'm agreeing to the calculation that um, Jan Daly's put forward.

30 "Why have you invoiced for 450 tests? Yes, why have you invoiced 450 tests at the Royal Hospital for Women?" "I don't think I did 450." "Yes, you did. Where's the 450?" Do you see that?---That's correct.

And then coming over the page we've established, we we've already established that 50, 50 tests, then you say, but that's an error. If you calculate what that is, I've done something stupid, stupidity in the terms of 16,500. Do you see that?---Yes.

40 Now I'm going to come to the next question from the Commissioner and your answer, but nowhere in what I've just taken you through do you make any suggestion that we should understand your reference to 50 tests as equalling 10 tests do we?---You haven't asked me that question. I'm elaborating now because you asked the question.

But you've answered all of these questions without taking any issue about the proposition in Ms Daley's questions that is that each invoice represented 50 tests?---That question was never put forward to me and I've answered in yes and no.

Ms Lazarus, really - - -?---Really, that's what I (not transcribable)

- - - at no time in any of the questions and answers that you were subjected to during your compulsory examination that I've taken you through did you ever suggest that it was incorrect to understand each invoice of \$16,500 representing anything less than 50 tests?---I have admitted to that. I've said there's an error in my calculation. I believe it's on line, I can't find it.

10 THE COMMISSIONER: Well are you looking at the top of page 192?

MR ALEXIS: See you've admitted - - -?---I've already admitted on line 46 I believe it be, yeah, there must have been a clerical error on my behalf.

But you see that relates to the proposition that you didn't do 450 tests you did 200 tests?---Which I've already stated - - -

20 And at no time, and at no time did you say that the error in respect of which you refer to the subject of stupidity at the top of page 192?---That's correct, yes.

But at no time do you say that the error related to the number of tests represented on each invoice?---I was never asked that.

30 Well let's look at your answer to the Commissioner's question on 192. And do you see that the Commissioner asked you this, If you calculate which is exactly the same as Royal North Shore and everyone else in terms of how many tests that I done if you do simple maths, you'll figure out exactly how many tests that were done and there done that, regardless of the fact that I've written 50 accidentally, I'm sorry, this is your answer?---That's correct.

40 Regardless of the fact that I've written 50 accidentally, some, I have no idea what, yes, I've done it a number of times and I can see that too. Okay. You don't need to point that out, I realise what you're pointing out, where you're coming from and what you're trying to establish here. What I'm trying to tell you is that I have made a clerical error. Okay. If you go back and do the calculation you will realise it's not the 450 tests, it would be close to 200 tests that we done. And at that point they've actually come back to me and said we actually overpaid you and we haven't received the money from the company yet. I had to actually return \$80,000 back to the Royal Women's Hospital. Do you see that?---That's correct.

So you're there saying in answer to the Commissioner's question is that the error relates to some overpayment because you didn't do 450 tests you did only 200. And you then explained that that was the subject of a request and as you say in that answer, the hospital actually asked you to pay it back. Is that right?---That's correct.

Well nowhere in any of that evidence do you venture the suggestion that the error related to the number 50 being in lieu the number 10?---I believe that question was never asked and again, please answer in no or yes comment. I've done my best to even put that through.

THE COMMISSIONER: But your long answer is not an answer to a yes or no?---Yes.

10 You've said it shouldn't be 450 it should be 200?---Close to.

So 200 is not 10?---That's correct. That would be in total. So per invoice 10 tests.

I see 10 tests at 10, 10 invoices at 10 tests each?---Yes, that's - - -

That's what you did?---That's what, yes.

20 MR ALEXIS: Ms Lazarus, if we take the nine invoices that on their face represent 50 tests an invoice and we substitute 50 for 10, that means 90 tests not 200 doesn't it?---That's correct.

Well the point I'm putting to you is right isn't it? At no point did you explain in your compulsory examination evidence that the error related to the number 50 on any of these invoices?---Sorry, can you repeat that question?

30 At no time during the questions that you were asked during the compulsory examination did you try and explain an error because you'd written 50 on the invoice and the requisition instead of 10?---I'm sorry, I wasn't given the opportunity to do that, nor was that question put to me the way you've just put it. And I have admitted to my error in terms of 50 in the invoices that I have charged for is not equivalent to the amount of tests that were actually completed. Technically I haven't, I've been underpaid.

Now can I just take you back to the last four or five lines of your answer to the Commissioner's question?---Ah hmm.

40 And do you see there you've said at that point they've actually come back to me and said we actually overpaid you. Do you see that?---Yes, that's correct.

And you're there referring to the Royal Hospital for Women aren't you? ---That's correct because I believe Johel had not put that \$80,000 in which I did go forward and inquired about that, made an inquiry (not transcribable)

So do I have this right, when you gave that evidence to the Commissioner back in December last year - - -?---Yes.

- - - you were intending to tell him that the hospital contacted you and said to you, "we overpaid you" and they asked you for the money back. Is that right?---Well it shouldn't be overpaid, it should be, they contacted me and said that they haven't received the \$80,000 from the sponsoring company.

Well hang on Ms Lazarus, let's look at what you actually said?---Yes, that's, okay.

Rather then trying to receive a spin on it?---No one's putting a spin on it.

10

You've said, well let's have a look at what you've said and I'm just using your words that you gave to the Commissioner back in December last year. You said, they've actually come back to me and said we actually overpaid you and we haven't received the money from the company yet. I had to actually return \$80,000 back to the Royal Women's Hospital. And what you were intending to convey to the Commissioner quite plainly, I'd suggest to you, is that an overpayment had been discovered, the hospital asked you to repay the overpayment and that's what you did?---Because the sponsoring company hadn't put in the \$80,000, based on that, that would be an overpayment. Like you said I wasn't allowed funds from the hospital.

20

Well have a look at the next question from Ms Daley and your answer, which was in further elaboration of your earlier answer?---Ah hmm.

So even if they did overpay me the money was returned to them, \$80,000 cheque, which they have received and cleared. So when it was overpaid it was returned. Do you see that?---Yes.

30

So that's entirely consistent with the evidence that you've just given that you'd received a request to pay back \$80,000 and you did so?---Yes, there was a request by the hospital to pay back the funds for \$80,000 for the money they had paid me and they had not received any funds from the sponsoring company.

40

And what I want to suggest to you is that the evidence that you gave to the Commissioner at 192, lines 10 to 20 is completely false. You never received any communication from the hospital telling you that you'd been overpaid and you never repaid any such overpayment with a cheque for \$80,000?---That's just incorrect, because you actually have a copy of the cheque.

Well I'm going to go to that in a minute. But can I just ask you this, when was the first time that you learnt that Mr Neiron had not put any money into the Royal Hospital for Women?---When I received the letter from William Walter on 24/12/2008 or, sorry - - -

No. Ms Lazarus, the evidence that you gave about the letter from Mr Walters - - -?---Yes.

- - - and at page 93 of the transcript when I asked you this a couple of weeks ago you said that you first learnt that no money had been put in when you got Mr Walters' letter at page 224 of the transcript?---That's correct.

Do you remember that?---Yes.

And that's the letter that asked you to come in for a meeting?---Yes, that's correct.

10

Now I want to suggest to you that that evidence was quite false because you learnt that there was an issue concerning what had been paid out to your companies when Vanessa Madunic contacted you in September of 2008?

---That's incorrect. At no point she contacted me in 2008.

All right. You see, what I want to suggest to you is that - - -?---Sorry, I just (not transcribable)

20

- - - Ms Madunic and you had a conversation and that that occurred in the last week of September 2008 and that during that conversation she asked you to repay the money?---I'm sorry, I do not recall that, do you have any documentation to support that or - - -

Well, let me show you for convenience, and this is already in evidence but it's attached to a statement so rather that go into, Commissioner, can I just provide a copy of an email and if you look at the string of emails, at the bottom of the first page you see an email from Mr Ratnam to Professor Hacker which is copied to Vanessa Madunic, do you see that?---Yes.

30

Now, clearly enough you're not involved in this communication but I want to draw your attention to what is contained within Mr Ratnam's email on the next page and if you look at the second-last paragraph, do you see that?---Yes.

40

And do you see that Mr Ratnam has recorded there that Ms Madunic had a discussion with you last week and by the date of the email we can put that as occurring in the last week of September 2008 and we're told that 250,000 has been sent to the South Eastern Sydney Illawarra Area Health Service for the trial, however no such funding has been received to date. Did you see that?---Yes, I can see that, yes.

Now, that reflects the conversation that occurred between you and Ms Madunic in late September 2008, doesn't it?---A conversation I do not recall, sorry.

All right. Thank you. That email can be returned?---But it does clarify that I have the knowledge that the money's been paid.

Now, when you learnt that the hospital had not been paid any money and can I just put to one side the question of when because of the issue that exists in relation to that?---Yes.

But when you learnt that no money had been paid may we take it that it was clear to you that your companies and Wish Consulting had been paid in relation to the invoices that had been submitted to the hospital for payment and that the Royal Hospital for Women were out of, was out of pocket in relation to those payments?---That was pointed out to me following the,
10 following the letter in a conversation with William Walter.

So the arrangement that you'd discussed with Professor Hacker, namely that Sydvat would put the money in at one end and you would receive the money out at the other end and the hospital would not be out of pocket was an arrangement that you must have understood then had completely failed?
---That's correct and hence I made inquiries about it to Johel to ask where these funds are.

And so you understood that you had been paid by the hospital in
20 circumstances where the sponsor, based on the evidence that you have given to this inquiry, the sponsor hadn't performed and paid the money to the hospital?---The sponsor failed to provide funds, I believe the sum of \$80,000 which was outlined by Johel Neiron that that's what the outstanding funds are.

So if the basic arrangement with the hospital that you've told us about in your discussions with Professor Hacker is true then it would have been a simple matter for you to respond to the hospital by repaying the money that they paid you and claiming that directly from Mr Neiron because of his
30 failure to put the money in as promised?---That's correct and I did approach him and apparently he, which I've given evidence of, he said he's having internal issues, that I am to be patient and I will be paid accordingly.

But whatever conversation or conversations you had with Mr Neiron in relation to the subject of him failing to stick with his promise to put money into the hospital and whatever the result of that conversation was, the fact remains that the hospital was out of pocket?---That would be an arrangement between Sydvat and the hospital, not with me.

40 But Ms Lazarus you've told me umpteen times in this inquiry - - -?---Yes.

- - - that fundamental to your arrangement with Professor Hacker was that Sydvat would put the money in at one end - - -?---That's correct.

- - - you would take it out via your invoices at the other and the hospital would not be out of pocket?---That's correct.

Well, it was obvious to you when you learnt that no moneys had gone in that the arrangement had completely failed?---That's why I made that inquiry.

And you've just told me that you had some discussions with Mr Neiron about that subject matter?---That's correct, yes.

10 Nonetheless you'd been paid and you were hanging onto the money?---No, that's incorrect. I was told that a sum of only \$80,000 was short and hence the sum of \$80,000 was paid back on instructions by Johel Neiron.

So you could have paid the money back and claimed or sued Mr Neiron for breach of his promise, couldn't you?---At that time, sorry, that did not cross my mind.

20 Well, one thing you could have done is pay the money back to the hospital because of Mr Neiron's breach of promise and made a complaint to him that he should make good your loss?---Well, he had an agreement with the hospital, not with me directly so I am not quite sure - - -

Well, he had an agreement with you, he had an agreement with you?---He had an agreement with the hospital to provide sponsorship for the trial. I'm sorry, I don't understand what you mean in terms of putting myself in with the hospital or Mr Neiron or - - -

30 Well, if fundamental to the arrangement was the proposition that the hospital would not be out of pocket why when you learnt that no moneys had been put into the hospital did you not repay what you had been paid? ---What, what do you mean?

Why didn't you repay the money that you had been paid by the hospitals when you learnt that Mr Neiron had not supplied any funds by way of sponsorship to the hospital?---So pay back the money to the hospital?

Yes?---\$80,000 was paid back as requested.

But what about the rest of it?---its there, according to my knowledge Johel, the sponsor, did provide the remaining of the funds.

40 Ms Lazarus, you've told me this afternoon and at least on three occasions when I examined you earlier in this inquiry - - -?---Yes.

- - - that you learnt, let's leave aside precisely when, but you learnt when you received Professor Walters' letter that the arrangement had failed, that Mr Neiron had not honoured his promise to pay sponsorship moneys to the hospital?---That amount of \$80,000 which I've mentioned on several occasions to my knowledge - - -

Ms Lazarus, you've never said to me on the last occasion that you had an understanding that he was short \$80,000. You told me quite clearly on the last occasion that you learnt that no money had been paid at the end of the 2008, didn't you?---I don't believe I said that, I did not say that, sorry.

All right. Now, can I just ask you this then - - -?---Sorry, one second.

When you wrote the letter to the hospital at page 250 of Exhibit 1 - - -?
---One moment. What page is it?

10

250?---250.

Do you have the letter from Complete Health and Medicine at page 250 dated 2 February, 2009?---Page - - -

250?---Yes.

Now, when you wrote this letter to the Royal Hospital for Women - - -?
---Yes.

20

- - - you did so with the intention of representing Complete Health and Medicine as a sponsor of the clinical trial when it was not a sponsor of the trial, didn't you?---That was based on conversations I had with Johel, he said I cannot jeopardise the integrity of the trial.

Ms Lazarus, whether what you said in this letter was based on something Neiron told you or not, could you please attend to my question?---Yes, I am.

30

Whether that provides an explanation or not remains to be seen but what you intended, whether on the basis of what Neiron said to you or not, was to represent Complete Health and Medicine as a sponsor of the clinical trial at the Royal Hospital for Women when it clearly was not?---Well, does it say that it's a sponsor?

40

Well, have a look at the opening sentence. "This letter is in regards to the required funds which were provided by our company for the research project into cervical cancer. In accordance with our records two cheques were drawn to support the cervical cancer research project at your research institution," and then you detail the first cheque as one drawn back in April 208 and you detail the second cheque drawn back in October 2008, do you see that?---Yes, that's correct.

Now, the statements in the letter about cheques being drawn- - -?---Ah
hmm.

- - -by Complete Health and Medicine- - -?---Yes.

- - -in April 2008 and October 2008- - -?---Ah hmm.

- - -is completely and utterly false, isn't it?---I've already given evidence to that.

I know. And you've accepted from me that those statements are completely and utterly false, haven't you?---Um, I believe the cheques weren't written but I was instructed that um, I should outline that efforts were made, and again I've given evidence to that and instructions off that, but at no point does it suggest or use the word sponsor in that letter.

10

If as you would have it this is the result of something Neiron told you to do, it doesn't make the content of it less false, does it?---Um, in terms of the cheques that are written?

In terms of anything in the letter?---That's not correct.

Just because Mr Neiron told you to write this letter, which is what you would have the Commissioner accept- - -?---Ah hmm.

20

- - -doesn't make the content of this letter less false, does it?---That would be incorrect. Like I said, where the error is in terms of the letter, the remainder of the letter is, does not mention at any point that it's a sponsor for the trial, just supporting the trial in terms of- - -

Ms Lazarus, I want to suggest to you that this letter on any view- - -?
---Ah hmm.

30

- - -is representing Complete Health and Medicine as the sponsor of the clinical trial at the Royal Hospital for Women?---I'm sorry, that letter doesn't outline that.

And I want to suggest to you, just so that we're plain with one another, that the reason why you got your mother to sign it and the reason why the congratulatory remarks are included in the last paragraph- - -?---Ah hmm.

- - -is to present Complete Health and Medicine as a company completely independent of you?---That's incorrect.

40

And that's why your mother signed the letter as Dr Helen Elias, so that there would be no apparent connection between this company, the managing director of this company and you?---That's incorrect. She is Dr Helen Elias.

But the reason you got her to sign it in those terms is because you wanted to maintain a separation between this company that was presented as the sponsor and you?---That's incorrect. She merely signed it because she was in that position and the fact that she is a doctor um, that's the reason why she signed and obligingly signed that. And I've already given evidence in regards to how that letter was prepared and in terms of the congratulations

um, I've already given evidence to that outlining that this was a letter um, that's um, based loosely on um, letters that, examples of letters that were found on the Internet.

Mmm. So you knew by the time you sent this letter that no funds had been lodged with the hospital, that the Royal Hospital for Women were most concerned about the situation and they'd called you in for a meeting?
---That's not correct. Um- - -

10 Well, the fact is, you had a meeting with them the following day, isn't it?
---Yes, that's correct.

And the reason you sent this letter was to provide them with a return of funds so as to cover up the fact that you previously submitted false invoices claiming for goods and services that had never occurred?---That's completely incorrect.

20 All right. Where did the money come from in relation to the bank cheque which is at page 251?---Sorry, I cannot recall.

Can I just show you some evidence that you gave at your very first compulsory examination?---Yes.

If we can go to that please, at page 93 of the transcript. And this was an examination that occurred back in July 2010?---Yes.

Do you recall that?---Um, not the conversation. Do you have a hard copy for me?

30 No, just, it's only a couple of lines. I'll get you to read it. It will come up on your screen momentarily, Ms Lazarus?---You'll have to give me time to read it, please.

So if we could have page 93.25 up on the screen, please. And do you see on this occasion a Mr Vasan was asking you questions, do you see that at line 25?---(NO AUDIBLE REPLY)

Do you see his question, "This is about"- - -?---Line 25, yes.

40 "This is about that Commissioner. Now, wasn't there an occasion when, was there an occasion when your mother had to write to the Royal Hospital for Women?" "That's correct, there was." "Why was she involved", is the question. And you see your answer? "She was involved because I had to get funds off her, that's why she was involved and she's a clinician." Do you see that?---Yeah.

And then you see the next question, "Your dealings with the Royal Hospital for Women had nothing to do with your mother?" And you say there, "It

had nothing to do with my mother but she supported the letter that's in front of you to return certain funds that were paid to me because the grant didn't come through or something happened. I was told by Professor Walter to pay the funds back." And you refer to the letter of the 24th. Do you see that?---Yes, that's correct.

10 And then if you come over the page, page 94 of the transcript, and if I can bring you immediately to line 20 and following, there's discussion there you can see about the letter. The Commissioner asks, "Who owns Complete Health and Medicine?" You answer, "I do." Do you see that?---(NO AUDIBLE REPLY)

Do you see that, Ms Lazarus?---Yes.

And then you see the next question, "You do?" And then you answered, "But my mum provided the funds." Do you see that?---Yes, that's correct.

20 So what you were saying to the Commissioner, that the source of funds for the bank cheque attached to the letter, the bank cheque being at page 251 of Exhibit 1- - -?---Ah hmm.

- - -came from your mother?---Um, I believe she provided, to the best of my knowledge, not the full eighty thousand, part of it. I can't recall how much.

Now, can I show you this document, please. And, Ms Lazarus, do you see the first document to be the relevant application for the bank cheque of \$80,000?---(NO AUDIBLE REPLY)

30 Which also refers to the bank fee of \$8. Do you see that?---Yes.

And if you turn the page you'll see that I've provided you with a copy of the bank statement that we- - -?---Ah hmm.

- - -saw yesterday when I asked you some questions about GST?---Yes, that's correct.

But you see that the opening transaction on the Complete Health and Medicine bank account- - -?---Ah hmm.

40 - - -was the receipt on 30 January of \$105,600 from NSAHS? Do you see that?---Yes, that's correct, yes.

And then you see the bank fee comes out on the 2nd, which relates to the bank cheque and then a few entries down you see the eighty thousand? ---Yes, that's correct.

So clearly enough the funds to repay, as you would have it, \$80,000 to the Royal Hospital for Women, came from funds that were paid to you by the Royal North Shore Hospital?---Sorry, I cannot recall that.

Well, there's nothing to recall about it. It's obvious from the document, isn't it, that you purchased the bank cheque from funds that had come in a day or so before from- -?---Ah hmm.

- - -the Northern Suburbs Area Health Service?---(NO AUDIBLE REPLY)

10

MS SOARS: Northern Sydney.

MR ALEXIS: Thank you. Northern Sydney Area Health Service?---If the document in front says so, then yes, but I cannot recall, I'm sorry.

Well, do you accept on the basis of your own bank statement that that's where the bank cheque was sourced from?---Um, based on the bank statement I will have to say yes.

20

And what follows of course is that your evidence on the last occasion about the money coming from your mother was completely false?---That's not correct because like I said, I cannot recall. The fact that you've given me this is the only evidence that I have in my mind um, as to where that eighty thousand came from, from, and at that time I did not have um, my statement, which I have available to me at any time I want, because hence the- - -

THE COMMISSIONER: Why did you say it came from your mother?
---In my mind I had thought yes, that's where the money was coming from.

30

Why, why did you tell The Commission that it came from your mother when it came from the Royal North Shore Hospital?---It didn't come from the Royal North Shore Hospital, it came from the payment, I believe, according to this document, for services I did provide, was the pay that apparently was given to medical and, sorry, Complete Health and Medicine. So- - -

From who?---Um, according to the pay it will be the Health, the Area Health Service that's outlined there.

40

MR ALEXIS: Commissioner, can I tender the application for the bank cheque together with the accompanying bank statement to show the source of funds?

THE COMMISSIONER: Well, these documents, Mr Alexis, are a copy of the bank cheque for \$80,000 and the bank statement.

MR ALEXIS: The bank statement for Complete Health and Medicine showing the source of funds.

THE COMMISSIONER: Right.

MR ALEXIS: And for the transcript can I indicate that the application for the bank cheque that is the subject of this tender relates to the bank cheque at Exhibit 1, page 251.

THE WITNESS: If I can just ask a quick question in terms of break, I know it's not a, if you'd like to go on or, I'm not quite sure.

10

MR ALEXIS: Well perhaps we can deal with the tender before it gets lost.

THE COMMISSIONER: The bank cheque, copy of the bank cheque for \$80,000 and the bank statement indicating the source of the funds are Exhibit 126A and B respectively and we'll adjourn for five minutes.

THE WITNESS: Thank you.

20 **#EXHIBIT 126A – COPY OF BANK CHEQUE FOR \$80,000**

#EXHIBIT 126B - BANK STATEMENT INDICATING SOURCE OF THE FUNDS OF BANK CHEQUE IN THE AMOUNT OF \$80,000

SHORT ADJOURNMENT

[3.13pm]

30 MR ALEXIS: Commissioner, I tendered earlier as Exhibit 124 the letter - -
-

THE COMMISSIONER: The Sydvat letter, yes.

MR ALEXIS: The Sydvat letter, I'm sorry it must be 125, the letter - - -

THE COMMISSIONER: The Neiron letter.

40 MR ALEXIS: To the Royal Prince Alfred and I've asked my instructing solicitor to retrieve the form of document that was produced on summons by RPA and could I seek to substitute what was produced for the Exhibit - - -

THE COMMISSIONER: Yes.

MR ALEXIS: - - - which contained my highlighting and other marks.

THE COMMISSIONER: Yes.

MR ALEXIS: Thank you, Commissioner. May I proceed, Commissioner?

THE COMMISSIONER: Yes, certainly.

MR ALEXIS: Now Ms Lazarus, one thing that's plain on the letter to the Royal Hospital for Women at page 250 of Exhibit 1, is that you were not by sending them a cheque for \$80,000 making a donation to the hospital. That's so isn't it?---Sorry, what do you mean donation?

10 Well I'm just asking you one thing is clear from the letter that when the cheque for \$80,000 was sent to the hospital you were not intending your company to be making a donation to that hospital?---I believe a donation receipt was provided by the hospital.

But Ms Lazarus, I thought you told us earlier that this was to repay what you described as an overpayment?---That's correct, yes.

Well it could hardly be a donation if you were repaying an overpayment could it?---Well I didn't give it as a donation, no.

20

No. And can I ask the witness to be shown Exhibit 111, which was tendered yesterday afternoon. And I'm just going to show you Ms Lazarus, the financial statements for Complete Health and Medicine for the year ended 30 June, 2009?---Yes.

Do you recall I showed you this yesterday?---Yes, that's correct.

When we were discussing the subject of GST?---Yes, that's correct.

30 And on page 2 I identified the provision for the GST liability as at 30 June. Do you remember that?---Yes, that's correct.

And if you look at the third page of the financial statements you'll see that the company's expenditure for that year includes a donation of \$80,000. Do you see that?---Yes, that's correct.

So is it correct for the Commissioner to understand that this \$80,000 that was paid to the Royal Hospital for Women by the bank cheque of 2 February was claimed as a tax deduction by the company as a donation?

40

---Based on the information provided by the hospital.

Well why does that have anything to do with it when you've just told us that it wasn't paid as a donation?---Well because I would have given all the receipts and clearly on the receipt is marked donation, so hence it would have gone down as a donation.

See I want to suggest to you that when you instructed your accountant to prepare the financial statements for the company for the year end 30 June,

2009, you instructed him that the 80,000 payment was a deduction and it should be deducted in the company's books accordingly?---I think that would be incorrect. I don't think that any instructions were given. But this is basically based on the simple receipt that was provided by Royal Women's Hospital which indicated it was a donation. Same as the receipt that was provide by St Vincent Hospital. Hence there is a copy of that in the tender bundle.

10 So that justifies a claim for a donation when you've told the Commissioner in your evidence just a moment ago that you didn't regard the payment of that in that category?---Just simply based on the information provided by the hospital.

But you must have known - - -?---(not transcribable)

- - - because of the nature of the payment and the purpose of the payment based on your evidence that it was quite false to claim it as a tax deduction? ---Not according to the receipt.

20 All right.

THE COMMISSIONER: But the facts, according to the facts you knew it was false?---Well not according to the receipt. If that was payment back then it should say payment back and not donation receipt.

Well you knew what the payment was for, you didn't need the receipt to tell you. You knew didn't you?---Well I did need the receipt.

30 You knew what the repayment was for didn't you?---Regardless of what I knew, I'm sorry, in terms of documentation, that's what it said. Isn't that what you're asking, that documentation, documentation, that's what it clearly outlined, donation.

MR ALEXIS: Now please turn to page 252, Ms Lazarus?---Of Exhibit 1?

Exhibit 1?---252?

40 252. And do you see that the notes of the fact finding meeting that occurred with Professor Walters and Ms Maffullo and others commences at that page?---Yes, that's correct.

Now may we take it Ms Lazarus, that when you attended this meeting you knew at least two things, the first was that no money had been paid to the hospital?---That's incorrect.

And secondly you knew that the people from the hospital, particularly Professor Walters and Ms Maffullo were trying to get to the truth of what had occurred to understand why some hundreds of thousands of dollars had

been paid out of the hospital to you and your companies?---Can you repeat that question?

You knew that they were wanting to know what the explanation was for hundreds of thousands of dollars being paid out to your companies?---I think that's incorrect. The sum was \$80,000.

10 All right. Now when you answered questions that were put to you during this meeting, did you attempt to be truthful?---Yes, I did, but I noticed that there is a substantial amount of information missing. I queried that and hence the reason why I never signed this, this document, because there's even the mention, there are a lot of errors in here. Well we can go through them if you like.

Well Ms Lazarus, you received the examination bundle about at least a week before this inquiry commenced didn't you?---Examination bundle, this bundle?

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

And you read it?---All of the bundle?

Yeah?---Oh, I went through it roughly.

And you've been providing Ms Soars, your counsel, with instructions for the purpose of cross-examining witnesses?---Yes, that's correct.

30 And do recall Professor Walters when he came and left the witness box?
---Roughly, yes.

I'm sorry?---Roughly.

Well, one thing you can recall is that not one question was put to him about the content of these fact finding meeting notes?---I cannot recall, I'm sorry, I'll have to go through the transcript, I do not recall word by word what you put forward to him.

40 There was a single question put and my learned friend helpfully corrects me and I'm happy for her correction, one question was put to Professor Walters and that related to the missing letters of the word on page 258 where at the foot of the page the words attributed to you as SL third from the bottom - -
-?---Yes.

Says no other dash bracket something started with S and he was asked if he could fill in the missing letters, do you remember that?---Ah hmm, yes.

But apart from that he wasn't asked a single question about the content of these notes, was he?---I cannot recall exactly sorry.

Now I want to just ask you a couple of questions about this if I may and if you turn through to page 253 - - -?---Yes.

- - - and do you see that at about the two-third point down the page there's a reference NM, that's to Ms Maffullo, and she asks you the question, "How do you get paid for your research work," do you see that?---Yes.

And do you see your answer?---Yes.

10

"I do side jobs, part of my interest, I sell medical devices and attachments, so forth, it's unrelated to the research, I do a lot of writing for television and radio as well as ABC, Australian Film and Radio College." Do you see that?---Yes, that's correct.

Now, does that accurately record your answer to her question about how you got paid for your research work?---No, it doesn't.

20 And why doesn't it?---Because apparently she's mentioned that I sell some medical devices or attachments or, I have no idea what that is. There is a lot of queries that I had in this and I did voice that to her.

Well, just in relation to that answer to that question, apart from what you've identified about sale, sell medical devices and attachments, is there anything else about it that's inaccurate?---No, the writing is correct but you only get paid if it's published. If it's not published you don't get paid.

You see, in relation to that question about how you got paid - - -?---Yes.

30 - - - you made no mention of either of your companies, did you?---I didn't, I might have, I'm not quite sure.

Well, it doesn't appear in the recorded answer, does it?---Like I said, it's very inaccurate and hence the reason why I didn't sign it.

40 And do you see the question at the foot of the page, "What can you tell me regarding the claims for payment made against Area Health Service by companies, individuals related to that research," and you see the answer, "This screening device has tests, our tests cost a certain amount of money, it has attachments as well, basically purchasing those, we purchased all of them together." Do you see that?---Yes, I do, yes.

Now, there's nothing inaccurate about the answer that is attributed to you there, is there?---Well, I've said our tests so referring to myself but in terms of attachments, that would be out of my pocket hence the money that I was being paid I would have had to buy pads for the TENS machine.

But, Ms Lazarus, the fact of the matter is that in relation to the performance of the screen tests you purchased nothing in relation to that, did you?
---That's incorrect, like I said, I purchased the TENS machine pads but not in terms of the Medex device, that's for the TENS machine (not transcribable)

Because all of that was given to you for nothing, wasn't it?---That's not correct, not the pads. They had to be - - -

10 All right. But apart from the pads the rest of the equipment was given to you for nothing wasn't it?---On loan basis to the hospital not to me.

All right. Now, if I could just take you to page 254 of Exhibit 1 - - -?
---Yes.

- - - and do you see about halfway down the page Ms Maffullo asks you this questions, "Were all the funds for this project was coming from one source, ie, Complete Health?"---Yes.

20 "How much agreed to fund," do you see that?---(NO AUDIBLE REPLY)

Do you see that?---I'm just trying to find it, sorry.

Well, halfway down the page, do you see that?---(NO AUDIBLE REPLY)

Do you see the question, "Were all the funds for this project was coming from one source, ie, Complete Health? How much agreed to fund," do you see that question?---Yes, I do.

30 And do you see your answer, "They agreed to fund \$220,000," do you see that?---That's correct, yes.

And is that an accurate answer to her question- - -?---That's - - -

- - -in terms of what's recorded?---I wouldn't say i.e., I don't think she said i.e. complete health. Um, in terms of the amount of the fund, that's correct, and if it's referring to St Vincent it would have been Sydvat, I would have said Sydvat.

40 But your agreement to the question was to confirm that Complete Health had agreed to provide funds, \$220,000, to sponsor the clinical trial at Royal Hospital for Women?---There is no way I would have answered that Complete Health, in terms of eighty thousand I would have said yes, I wouldn't have said that, and she already had evidence of the letter from Sydvat in front of her. I'm sorry, like I said, there are a lot of errors in this and the reason why I didn't sign it.

Now, further down the page do you see that there's a question about consumables? Do you see the second-last entry, some sort of consumables to run each test, draw it all in one go?---Yes.

See your answer there, "Bought them in lots." Do you see that?---Yes, that's correct.

And what you were saying to Ms Maffullo was that the invoices related to consumables that you had to buy for the purpose of carrying out tests?
10 ---That's incorrect.

Mmm?---I'm sorry, it doesn't state that anywhere.

And if you come over the page to 255, do you see that you've said, or at least it's attributed to you at the top of the page there, "Based on the sample size in the ethics for this research, I will screen 200 patients, suitable number of patients to get substantial outcome. At meeting it was suggested to do preliminary trial as in-house. Didn't have to go through ethics committee." Do you see that?---That's correct.
20

And does that accurately record what you said to Ms Maffullo on this occasion?---Um, I would have mentioned my supervisor as well. Again there is, I can only assume there are, there will be something missing. The reason why again I didn't sign it um, in terms of the pilot trial I would have mentioned, 'cause she, they would have asked what- -

Do you see the next question, "Selection of the companies you purchase from, any suppliers you are dealing with?"---(NO AUDIBLE REPLY)

30 And do you see the answer to that question?---Where is that, sorry?

The next one down. "There are only two suppliers you can purchase from. This device is now not available on the open market?"---That's correct.

"Used both companies?"---Yes.

And that's what you told Ms Maffullo in answer to the question about selection of companies, isn't it?---Ah, yes, that, that would, in terms of the companies, yes, because it would be the Sydvat company and the Medex company.
40

Well, you know very well, don't you, that she was referring to the companies who had submitted invoices, your company and Wish Consulting?---No, I'm sorry, I can't make that assumption.

And that's to who you were referring in answering that question, weren't you?---I'm sorry, no, I can't make that assumption.

Now, on the question of ethics, can I ask you to come through to page 257?
---Sorry, 2?

257?---257, sorry, yes.

And do you see that you were asked the question by Ms Maffullo at the top of that page, "Describe what ethics, research ethics approvals would relate to the research." Do you see that?---Um, one second.

10 And then a few lines down do you see you've said, "Still waiting for approval for the pilot study, it was okay, didn't need full ethics approval?" Do you see that?---(NO AUDIBLE REPLY)

Do you see that, Ms Lazarus?---No, I don't, sorry. Where, whereabouts is that?

It's the second part that is attributable to you on page 257. Do you see the words, "Still waiting for approval?"---Oh, okay. Sorry. Yeah. You've jumped a question.

20 Well, I'm just trying to get through this if I can?---Okay, but you've jumped a question and I got lost.

Do you see the next question from Ms Maffullo, "Is it usual practice to proceed with research without prior approval?"---No, you've jumped another question.

I know I have. I'm trying to get through this, Ms Lazarus. Do you see the next question?---Well (not transcribable) Sorry.

30 "Is it the usual practice to proceed with research without prior approval?" Do you see that?---No, I don't. I'm sorry, I'm lost. You've lost me. You have to be a little bit patient. My medical report can be provided if you like. You have, you have to go a little bit slower. I do apologise. You said um, the first question, "Describe what the research ethics", yes.

Right. Well, that was a question that was asked of you. Is that so?
---Um, roughly, yes, it might have been.

40 And you responded by saying, "I have full research ethics approval from Concord." Do you see that?---That's correct.

And then you were asked a question about Professor Hacker. Do you see the next question?---(not transcribable) Yes, yes.

And then you responded by saying you were still waiting for approval- - -?
Yes.

--for the pilot study. Do you see that?---Um, "Still waiting for approval for the pilot study. It was okay."

Yeah. And then in the next question, and this is really what I want to come to- - -?---Okay. So- - -

10 --she asking you, "Is it usual practice to proceed with research without prior approval?" Now, that question was asked of you, wasn't it?---Again roughly it would have been. Like I said, I didn't agree with some of the things in there.

All right. Well, do you agree that that question was asked or not?
---It might have been, yes.

And do you see your answer that's attributed to you, "For the pilot study I was told yes?"---Yes, that's correct.

And then you were asked, "Who agreed to that?"---Ah hmm.

20 And she asked you that question, didn't she?---She would have, yes. I'm just going on- - -

And your response was, "The oncology department, Ian Hacker, D Marsden et cetera." Do you see that?---That's correct, yes.

And that was the answer that you gave to her question?---In relation to Royal Hospital for Women, 'cause I do believe there is probably again a section missing because when she said to me, if I can take you- - -

30 Could you please answer my question. Is that what you said in answer to Ms Maffullo's question as to who agreed to that?---In regards to the Royal Hospital for Women I would have mentioned these two names, but if you go to the previous line, apparently I'm talking about Concord as well, so obviously there's a whole paragraph missing.

Well, you know that Hacker and Marsden have got nothing to do with Concord, don't you?---Well, that's why I'm saying there's things missing from in here.

40 So the proposition that you advanced to Ms Maffullo was that it was both Professor Hacker and Doctor Marsden who agreed that you can go ahead without ethics approval. That's what you told her on that occasion, isn't it?
---That's what they've told me. And if that question was presented to me on that occasion, that's how I would have answered it.

And your reference to Professor Marsden was completely false on that occasion, wasn't it?---That's incorrect.

Well, nowhere so far in your evidence before this inquiry, Ms Lazarus, have you ever made any suggestion that Dr Marsden gave you approval to proceed with any pilot study without ethics approval?---The conversation I've had with, look, she could have put that, like I said, there are bits missing and I didn't agree. So if it is a name- - -

Well, I just asked you a moment ago, Ms Lazarus, whether that correctly captured your answer and you told me that it did?---Correctly captured my answer in terms of where I got the approval to move ahead um, in
10 conversations with Neville Hackers, yes, it's directly from him. Um, Don Marsden, he was aware that this trial was happening but I cannot, if I did have a conversation with him or whether I didn't have a conversation with him in regards to ethics approval, I cannot recall, and whether I said Don Marsden on that occasion or not, I cannot recall. And like I said, there are bits that are missing and the reason why I didn't sign it.

Do you have any regard at all, Ms Lazarus, for the professional integrity of doctors?---Um, it's a question you should put forward to them I think.

20 Well, I'm just asking you. Do you have any regard to- - -?---I had a- - -

- - -the professional integrity of doctors?---I had a high respect for them um, coming from that area and having family members coming from that area um, until this trial began and they've bluntly denied what was put in front of them, which now I have, I must say, unfortunately lost respect for these people who can sit there and deny their visual signature, their own handwriting.

Now, please turn to page 259. Now, do you see three questions down from
30 the top of that page, Ms Maffullo asks you whether you have got any, got something to tie in with the invoices, went through some of the requisitions, Medical and Clinical Informatics, and there's a reference to invoice ending 209. Do you see that?---Sorry, 209? Um- - -

THE COMMISSIONER: The fifth question. Five questions from the top?
---Yes, I've got it. Yes, thank you.

MR ALEXIS: And then you see your answer, "Only ones that have
40 device." Do you see that?---I see it, yes.

And what you were saying to Ms Maffullo was that Medical and Clinical Informatics, the company referred to on requisition ending 209- - -?---Yes.

- - -was the only company that, that, that had the device?---That's incorrect. Like I said, there are bits missing. I would have never answered only one have, only one, only ones that have device. Like, that's just not even a complete sentence. Honestly.

THE COMMISSIONER: All right?---Like, I know I'm dyslexic and I get mixed up, but this is just incomplete.

MR ALEXIS: Well, let's have a look at the next question. "Who received the goods?" Do you see that?---Yes.

10 And do you see the answer that's attributed to you, "They are in Neville Hacker's office, all the ones ordered, have a sign saying Research Equipment, Do Not Touch." Now, was that an accurate answer as recorded there to that question?---I don't think it's complete because um, the research equipment was in ah, Neville Hacker's office, not his direct consulting office, but that unit um, where I've already told you in previous evidence where it was stored, and it did have a sign in white, on a white sheet, "Do Not Touch, Experiment Equipment."

All right. What I'm concerned about is the accuracy of this record. All right?---Yes.

20 Now you see the next question refers expressly to requisition ending 210, which is a Wish Consulting requisition?---Ah hmm.

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

And do you see in reference to that you've said two things we need, each company is one thing. Do you see that?---Yes, that's correct.

30 And what you were explaining to her is that Medical and Informatics provide one thing, namely the device and Wish Consulting provides the other thing, namely marketing materials. Is that so?---I don't think so, that's correct, no. Again it's missing half a sentence, it just starts in the middle of nowhere.

And may we take it that if you had any real issues concerning the accuracy of this record of the meeting, it's something that you would have brought to the attention of your counsel?---Sorry?

40 You would have brought it to the attention of your counsel when she was cross examining Professor Walters?---I think, I can't remember, sorry, I cannot recall whether I did or didn't.

Well have a look at the next answer that's attributed to you after the reference to clarify the marketing materials. Do you see long answer half way down that page on 259?---Yes, that's correct.

Did not know why they used the reference to marketing materials. Goods related to patient information booklets and attachments. Now that's how you responded to the question that sought clarification of what marketing materials meant isn't it?---No, that is completely incorrect because the

booklets I would have been referring to at that time would be I believe, your whole approach again, this is, I cannot recall very well, you'll have to go to the source to get the information.

But what you were saying to Ms Maffullo was that you couldn't explain because you didn't know why they, that is Wish Consulting used the reference to marketing materials because they were goods relating to patient information books and attachments, like information patient sheets provide booklets that you have to have for each patient in records?---That's
10 incorrect. I do not know where that's derived from because that looks like it's an answer to about four questions put in one.

And do you see a couple of lines down there's a reference to the Wish Consulting one supplier that do that. Do you see that?---Again, it would be in regards to, in terms of correcting the booklets from Medex. Wish Consulting was the only one that did that.

And Ms Lazarus, at this meeting every person in attendance - - -?---Yes.

20 - - - had something to do with the hospital apart from you. Is that so?---I cannot recall, sorry.

Well if you look at page 252 and you look at who was present at the meeting, you've got the Executive Clinical Direction, Professor Walters? ---252. Yes.

You've got the Human Resources consultant, you've got Ms Maffullo, who was the Director of Internal Audit?---Yes.

30 You've got Joanne East, an Executive Assistant who was keeping the minutes?---Ah hmm. Yes.

And then there was you?---That's correct.

So if the information that's recorded on page 259 about what it is that Wish Consulting was supplying is recorded as representing what was said in the meeting, then the only source of that information could have been you? ---That's incorrect. The source of the information is me, but the information presented here, like I've mentioned again for the tenth time, is not accurate.
40 And the reason why I didn't sign it. And going back to that meeting I do remember the person that was taking the minutes of the meeting, again no disrespect to shorthand, it's a wonderful language and a very difficult language to read and learn, I noticed that she was actually using shorthand to take down notes of minutes of the meeting. I just noticed that because it was something different that was happening and that has just come to mind. Other than that, like I said, there are things that are missing. At times it's put together, to me in terms of answers, there are like four answers put together to answer one question.

Can you have a look at page 263 and you will see that is a transcription of -
- -?---263.

- - - Ms Maffullo's handwritten notes that appear on pages 261 and 262. Do
you see that?---That's correct, yes.

10 And so you understand don't you that my reference to either the handwritten
notes or the transcription on 263, this purports to record a telephone
conversation that she had with you on 6 February, 2009. You understand
that don't you?---I cannot recall this conversation and nor can I recall
calling her. I'm just going to have to go on what you're saying.

Well if you could just answer my question. You understand that the
handwritten notes at 261 and 262 and the transcription - - -?---261, yes.

20 - - - at page 263 and 264 seek to record what is said to be a telephone
conversation between you and Ms Maffullo on 6 February, 2009?---Well I
can't be for certain. I can't read her handwriting, so - - -

But you understand that's what the document is?---That's what it's relating
to roughly.

Thank you. Now it might be easier if we follow the transcription. And do
you see on 263 - - -?---Yes.

- - - according to Ms Maffullo's note - - -?---Ah hmm.

30 - - - during the telephone conversation in paragraph 1, you told her that she,
that you had done what you could to locate the files by checking with the
lady at the front counter at Professor Hacker's unit. Do you see that?---Yes.

And then she goes on to record, no files have been located. She thinks
Helen might have thrown them out. Do you see that?---Yes, that's, yes.

40 And what I'm suggesting to you is that between the meeting of 3 February
and your telephone conversation with Ms Maffullo on 6 February, you went
to the Royal Hospital for Women and you tried to find the files that were the
subject of discussion during that meeting?---I'm sorry I don't recall doing
that but there is no way I would not remember Helen's name. And to
suggest that she's thrown them out, at that stage I would have not said
anything like that. She and I had a, a good relationship, hence the reason
why she asked me on several occasions to join her for lunch.

But Ms Lazarus, if you could attend to my question?---I'm sorry I wouldn't
have said that.

What you've conveyed to Ms Maffullo during the telephone conversation was the fact that you'd checked to locate the files and they couldn't be found. That's what you told her isn't it?---I'm sorry I cannot recall that conversation or this telephone call.

10 Well can you recall whether you went to the hospital to check whether the files were there and do you remember that having done that you couldn't find them?---I do, on this occasion I do not remember any of doing that, doing any of that. The time that when I did return to the hospital was to collect the equipment when that equipment needed to be returned back to Medex. And the files were still there because according to ethics protocol I'm not allowed to take those files.

See what I'm suggesting to you is that well before this Commission got involved in this particular matter, you'd been to the hospital, you'd expressly gone there to locate the files and you had come away with nothing?---I'm sorry your suggestion would be incorrect.

20 Well that's what you told Ms Maffullo on 6 February, 2009 isn't it?---I'm sorry I cannot recall that conversation so I cannot tell you, ever having this conversation, I'm sorry or what we were discussing. I don't think I would have discussed something like that or forgotten Helen's name. That is not something I would have done.

Now let's go to the next conversation that you had with her according to the file note at page 276. And again you've got the handwritten note at 275, but at 276 we have her record of your phoning her on 4 March, 2009. Can you see that?---On the 4th?

30 4 March, 2009?---Sorry, I don't have the 4th one.

Have a look at page 276 of Exhibit 1?---276, I apologise, I'm on the wrong page. Yes.

Now firstly you had a conversation with Ms Maffullo on 4 March, 2009 didn't you?---Again, I cannot recall having any conversations with this person apart from the meeting. And I can't even put a face to her name.

40 Well, I want to suggest to you that as the file note tells us, you rang her at 3.30pm on 4 March and you told her that you were trying to secure additional research fund but that the company had not received correspondence from the hospital, do you remember that?---I cannot remember, I'm sorry.

And she asked you whether or not that company was the one that supplied the payment, that is, the company Complete Health and Medicine and you answered yes?---I'm sorry, I cannot remember so I won't be able to answer your question either way.

You see, what I want to suggest to you is that in this television conversation you wanted to keep the hospital at bay by telling them that you were trying to secure the money from the sponsor, namely Complete Health and Medicine and you did that by telling them that they had agreed to pay the balance of the funding. Have a look at the second-last paragraph of her note?---I'm sorry, like I said, I do not remember having this conversation with her and I would have, wouldn't have said any of these things.

10 So you're in no position to deny the accuracy of the telephone note of that conversation, is that so?---I'm in no position to agree with it either.

Now, can I ask you about the security ID card that you obtained at the Royal Hospital for Women?---Yes.

And do you recall early in this inquiry I asked you at page 116 of the transcript from line 1 - - -?---Yes.

20 - - - as to when it was that you obtained it and you said that it was early in the piece in late 2007?---Roughly, yes, I cannot recall.

And do you recall that I put to you that perhaps you were mistaken and it was around the time that you obtained, I'm sorry, the time that you filled out the employment forms which was in about April 2008?---That's incorrect. I would, it would have been early 2007.

30 And you rejected my suggestion and said at line 11 on page 116, "No, I think the security card was obtained earlier maybe." Do you remember saying that?---That's correct, yes, because I couldn't remember the exact month but it was the year 2007.

Now the security card can I just understand was something that was important because it meant that you were able to show patients and doctors and other medical people that you were associated with the hospital in some way?---Without the security card you cannot approach patients.

40 So it's important then to have the security card or ID badge or whatever you call it, you know, pinned to your coat or to your clothing so it's visible so that people can see by reference to the badge who you are and what your position is and what sort of thing?---That's like, just like in every other institution, yes.

And may we take it that you had the badge with you when you first saw your first patient as you would have this Commission accept that you actually did?---Yes, that's correct.

Now, can I suggest to you that you in fact didn't get your security badge until August 2008?---No, that's incorrect.

Do you recall Ms Barlow, the clinical nursing specialist, gave evidence to the Commission where she said that there was a long delay between the presentation that occurred at the lunchtime which we now know was in November 2007 - - -?---Yes.

- - - and the time when she actually sought to identify patients that might be suitable for the study?---They would be the pilot study, someone with breast
- - -

10

Be that as a pilot study or a full-on study, do you recall that she said that that occurred to her recollection around August/September 2008?---I will have to go with her, what she's recorded, only because I cannot recall.

20

Well, she said to the Commission that she was able to recall that because she had some trauma in her life at the time, she'd just done a, a significant piece of academic work which she found difficult and that's why she was able to piece together the timing and the question of referring of patients as one occurring in August/September 2008, do you remember that evidence?
---Like I, I remember her evidence but like I said, I cannot recall so I'll have to base it on what you're suggesting and what she's put forward.

And so if it be the base that your ID badge wasn't issued to you until August then that would be consistent, would it not, with Nurse Barlow's evidence that it wasn't until August or September 2008 that you were able to actually see some patients that were referred to you?---That's very incorrect.

Let me show you this document?---Okay.

30

Now, can I just ask you to look at the second page and tell me whether that was a true photograph of you in 2008?---That's, that's my photograph, yes.

Yeah. And if you can just come back to the front page of the document you'll see, just turning it sideways, that there is a reference to a card number, an employee number and then there's the name Sandra Lazarus with the work group ID being Gynae Oncology, do you see that?---Yes, that's correct, yes.

40

And do you see the box immediately underneath that identifies the start date as 5 August, 2008?---Yes, that's correct, yes.

And if you turn over the page you'll see again in reference to the printing of the card adjacent to your photograph the date 5 August, 2008 at 3.39pm, 35 seconds. Do you see that?---Yes, that's correct, yeah.

And I want to suggest to you is that your security ID card with your photograph was not issued until August, 2008?---That's very incorrect because it was Helen that actually escorted me down to the security office

after a form was completed by her and signed by Professor Neville Hacker and it was in 2007. This, I don't know what this is based on.

Well, the fact that Helen escorted you down doesn't assist you on your timing because this document indicates, doesn't it, that the timing of 2007 is completely wrong?---That's incorrect. I'm sorry but if you're suggesting that I received my badge in 2008 in August is completely incorrect.

10 Well, you were only ever issued one badge, weren't you?---Only one badge and how could, can this be manipulated, honestly.

What, you're suggesting this document's been manipulated, are you?---I don't know. Well (not transcribable)

20 Well, are you making that suggestion or aren't you?---Well, I'm just inquiring as to about why does it say 2008 August when I clearly received by badge in 2007? I wouldn't have been able to step into the hospital, have respected meetings with Neville Hacker or any of the other clinicians in regards to that, sorry, but I will have to completely disagree with that document.

You see, what I want to suggest to you is that, let me withdraw that. Do you remember being in this hearing room when I asked your sister Jessica about her ID badge?---That's correct.

And I showed her a document in identical terms to her relating to the issue of her card in July 2008?---Roughly.

30 And she accepted based on that document that that indicated accurately the date upon which she obtained her ID badge?---Well, that's something she's recalling not what I - - -

Do you recall her also telling me that it wasn't until she got that badge that she was able to see the first patient?---That's her recollection. Like I said, I got my badge in 2007 not 2008. This - - -

40 And you adhere to the assertion that you got your badge in 2007 despite the document indicating in relation to your security photograph that it was issued in August 2008?---That is my photograph but the date in terms of that the card's issued, I'm sorry, this is something I would really have to disagree with you on.

All right? Would you accept?---I do apologise.

Would you accept from me, you don't have to apologise to me, Ms Lazarus, would you accept from me that if the document be correct that you hadn't been issued your badge until 5 August, 2008 it would follow based on the

evidence you gave me a moment ago that you didn't even see a patient prior to that date?---I'm sorry, I cannot agree with that statement of yours.

All right. Commissioner, I tender the two, the document.

THE COMMISSIONER: What is it called?---Can you please tell me where my, sorry, I do apologise, I didn't mean to interrupt. Is there a department name, is that an authorised person, is there anything else?

10 MR ALEXIS: Commissioner, can I indicate that in light of this evidence I will tender a statement from the manager of security services at the Randwick Campus of the Royal Hospital for Women who gives evidence about the source of the documents and what it is that they identify?

THE COMMISSIONER: Yes. Perhaps you can just tell me now please the document with Ms Lazarus' photograph, what's that to be described as?

MR ALEXIS: It's a computer record relating to the date of issue of Ms Lazarus's security ID card?---If a card's been, can I just ask the question. If
20 a card's been issued, why is there a need to update it on 13/6/2010?

THE COMMISSIONER: The computer record relating to the date of issue of Ms Lazarus's ID card is Exhibit 127.

#EXHIBIT 127 - COMPUTER RECORD RELATING TO DATE OF ISSUE OF MS LAZARUS' SECURITY CARD

30 MR ALEXIS: Thank you, Commissioner. Now, could I have access, please, to Exhibit 19, the original exhibit? Now, Ms Lazarus, I want to put to you that your evidence that you undertook testing of any patient at the Royal Women's Hospital using the Medex device as reflected in the invoices that were submitted to that hospital- -?---Sorry, can you please repeat that question again?

I want to suggest to you, and suggest to you very clearly, that your evidence concerning the conduct of testing on any patients- -?---Yes.

40 - - -at the Royal Hospital for Women- -?---Ah hmm.

- - -as represented by the claim made in each of the invoices submitted to that hospital, is completely false?---That's completely incorrect.

Now, we've spoken earlier about Professor Ross Smith and his signing of the supervisor form on 18 August, 2008. Remember that?---Um, can I please be shown the form again? I cannot remember. I apologise.

Well, Ms Lazarus, perhaps I can go directly to what it is that I want to ask you about and that's the Vendor Maintenance Form at page 130 of Exhibit 1?---130?

30. Thank you. And if you look at the vendor form at 130 which relates to your company, Medical and Clinical Informatics?---Yes.

And if you look at the vendor form on 132 which relates to Wish Consulting?---Yes.

10

And you also look at the vendor form on 136- -?---Yes.

- - -which relates to Complete Health and Medicine- -?---Yes.

- - -is it still your evidence that you presented these documents to Professor Smith and you asked him to sign them and he did so before you?
---Definitely, yes.

20

And is it still your evidence, and you gave this evidence at 101 of the transcript, line 40, we don't need to go to it but just for future reference, do you adhere to the evidence that he signed each of those forms at the same time?---That's correct, he did.

And he signed those forms at the same time on 22 October, 2008 as the date adjacent to his signature indicates?---Just going through it now. If that's the date written on there, that's the date he would have signed it. That's the date he- - -

30

And having got those forms you then sent them by facsimile, or at least the first two from his fax machine from his office?---That's correct, the first two only.

Now, can I ask you to turn please to the vendor form for Complete Health and Medicine at 136. Do you have that?---136, yes.

Now, you know, don't you, that that company was not incorporated until 8 December, 2008, don't you?---Yes, that's correct. I'm well aware of that.

40

So therefore if this form accurately reflects that date that Professor Smith has signed it, it was a form that was completed by you and signed by him before the company was even created?---That's correct. The ABN number was missing. Um, the name and everything was there, hence the address. I'm not sure if the, but the name was there and it was an explanation of who that company belongs to.

Mmm?---The thing that was missing was the ABN number which I hadn't procured as yet.

Now - - ?---And the reason why only two were sent forward.

And so what you're accepting in giving me that answer I suppose is that you couldn't get the ABN of the corporate entity until after the corporate entity was created. Is that so?---What do you mean, sorry?

Well, you couldn't get an ABN of Complete Health and Medicine Pty Limited until the company was incorporated?---That's correct, yes.

10 And once incorporated and a Certificate of Incorporation was issued by ASIC, you could then apply for the ABN number. Is that right?---The, I'm not quite sure how that works. Um- - -

In any event, madam- - ?---It's all in that blue folder.

In any event, madam- - ?---Ah hmm.

- - -the position is that as you would have it, you procured Professor Smith's signature on the form at page 136 at a time when the ABN number was missing and after the incorporation of the company you then added the ABN
20 number onto the form. Is that so?---That's correct, yes

All right?---The ABN number.

Now, I want to show you the original of Exhibit, I'm sorry, I want to show you Exhibit 19. And what I would like to do is provide it firstly to the Commissioner, and can I perhaps as you, Commissioner, to just look at the vendor's name and the original ink reflecting that and look at the signatures at the foot of the page and then I want the document shown to Ms Lazarus and I'm going to ask her a question about it.

30 THE COMMISSIONER: I have two documents here. They're both, one's a copy. Yes.

MR ALEXIS: So if Exhibit 19 could be shown to Ms Lazarus. And do you see that the name of the vendor, Complete Health and Medicine Pty Limited is in original ink on that document?---Um, yes, that's correct, yes.

And do you see that the ABN number is in original ink on that document?
---That's correct, yes.

40 And the GPO box number is also in original ink. Is that so?---That's correct, yes.

Now, if you come down to the signatures at the foot of the page- - ?
---Ah hmm.

- - -it's obvious, isn't it, that those signatures are a photocopy?---If you say so.

Well, you tell me, Ms Lazarus?---I'm not quite sure. Um- - -

When you look at the original ink with respect to the vendor's name, GPO box and ABN number- - -?---Ah hmm.

- - -you have used original ink. When you look at the signatures at the foot of the page it's clearly a photocopy of a previous document, isn't it?
---Including my own signature and my name.

10

Mmm?---It seems that way, yes.

Thank you. Now, hold Exhibit 19 in one hand and turn back if you would to the vendor form at page 130. And if you line up Exhibit 19 with your name and your signature and the signatures of Professor Smith, you'll see that they are lined perfectly. Do you agree with that?---No, they don't, I'm sorry I cannot agree with that.

20

All right?---Again, I'm not a handwriting expert but I can see certain differences including in my own signature.

30

Well what I want to suggest to you is that in order to submit the vendor maintenance form for Complete Health and Medicine, you whited out the name of Medical and Clinical Informatics Consultants on page 130, the GPO Box and the ABN number, you wrote in over the top in original ink the vendor, Complete Health and Medicine, the GPO Box and the ABN and you otherwise used the photocopy of the vendor maintenance form for Medical Clinical and Informatics at page 130?---That would be incorrect because there are very distinct differences in the way my name is written and my own signature. I cannot speak for Ross Smith's signature, but just looking at my own signature, I know for a fact that there are certain differences in terms of the way I've even written the date. Even if you look at that the 2 is different. The 8 is even different. The way my S goes is different.

40

See what I want to suggest to you is that you whited out the details concerning one of your companies, made a photocopy of that and then completed the vendor details for Complete Health and Medicine and then submitted that form in that way for processing?---I'm sorry, that's completely incorrect. I would have no need to do that.

Well can you explain to me please why it is on page 136 as one looks at the name Complete Health and Medicine - - -?---Yes.

- - - that the line underneath that company's name is broken?---I'm sorry I cannot tell you that.

Well it's obvious isn't that you've whited out the name of the other vendor and written over the top either on the whited out version or on a photocopy the words Complete Health and Medicine Pty Limited?---I'm sorry, no, that would be completely incorrect.

THE COMMISSIONER: What's your explanation for the photocopying part of it?---I have - - -

10 This is a form you submitted isn't it?---That's correct. This is a form that I've submitted. Like I said - - -

So what's your explanation for the photocopying, why is part of the form photocopied?---No, I'm sorry, I cannot recall that. But I can tell you they are two different forms from the form that is suggested.

Well the inference is that this is fraud?---It isn't fraud.

20 And if, I'm giving you the opportunity to explain why it is that part of the form which you submitted is original and part is a photocopy?---Like I said, there's the ABN number. There could have been a change in the name. I could have had a Complete Health, sorry, Complete Medicine and Health, for that reason, because the company hadn't been established and the ABN is something that I would have had to put in. But in terms of the signatures and name, I'm sorry but just, again, I'm not an expert, but looking clearly they are not the two the same.

30 I'm, I'm not asking you about that. I'm asking you why part of the form is a photocopy and part of the form is not. You're the only person who can answer that because you compiled the form and submitted it?---That's correct.

So I need to know what, whether you have an explanation?---I'm sorry, I have no explanation. I cannot recall. The only thing that I do remember is that an ABN was not there (not transcribable).

MR ALEXIS: Thank you. Exhibit 19 can be returned and can I show you another vendor form?---Ah hmm.

40 Now do you accept that when you prevail upon Professor Smith to sign a number of vendor maintenance forms you got him to sign one with the vendor Royal Hospital for Women as well?---It's my writing. I don't know why that's the case. I have no idea. And he's subsequently signed it. So I have no idea as to why that's the case.

So the Commissioner should understand that you went to the trouble of writing out the Royal Hospital for Women as a vendor and providing some details about that hospital as a vendor, went to the trouble of getting Professor Smith to sign it without really having any understanding as to why

the hospital would be a vendor on such a form?---I think this is a clerical error on my part and it's actually carried through to Ross Smith who's actually continued with that error. Again, it's gone nowhere - - -

See what I want to suggest to you, what I want to suggest to you is that at the time of the completion of these forms - - -?---Yes.

10 - - - you knew that no money had been paid to Royal Hospital for Women. You knew by reason of Ms Madunic's telephone call with you in September that there was a problem and you divined the idea that you can pass the hospital off as a vendor to Royal North Shore Hospital so money can be going back to the Royal Hospital for Women?---That is so far fetched that I cannot tell you how incorrect that is, I'm sorry.

20 Well it might be far fetched but I'm searching for an explanation as to why you thought it was necessary to actually write out Royal Hospital for Women as a vendor and as you would have it submit it to Professor Smith for signature for the purpose of having the hospital named as that vendor involved in some way in the processing of these forms?---I'm sorry you might have to ask Ross Smith that question too because I cannot recall as to why - - -

You prepared them didn't you?---Well he signed it didn't he?

You prepared it didn't you? Why did you prepare it?---Whether I prepared it or not, that's the thing, I cannot recall as to why that preparation would have, why that document was prepared and being signed by me and then support of me signed by Ross Smith.

30 So what I want to suggest to you - - -?---So there are two people who have made that error.

Well maybe so, but what I want to suggest to you is that there is only one person that made the error because you forged Professor Smith's signature on each of these vendor maintenance forms?---Like I said, please provide documentation and report as to the authenticity of - - -

40 Ms Lazarus, you heard Professor Smith say that he is a university professor. He's got no financial authority or delegation from the hospital whatsoever. You heard him say that didn't you?---I haven't looked at the transcript and I cannot, I can vaguely remember but not in detail as to what was said.

So to accept your evidence concerning his signing of these vendor forms would require the Commissioner to accept that despite his absolute lack of any financial authority or delegation from the hospital - - -?---Ah hmm.

- - - as distinct from the university - - -?---That's correct.

- - - he nonetheless went ahead and signed all these forms for you?---That's something you'll have to put forward to him because his signature - - -

Well I did and he told me that he didn't sign them because of the absence of any financial delegation to do so?---Well maybe you should go do some handwriting analysis and actually find out, like I've mentioned several, on several occasions, I have bluntly sat here and said that's my signature. What they say is up to them and for you to investigate and examine as you are an investigating body. The signatures, like I told you in the private
10 hearing as well, the reason I can sit here, because I know that every signature is authentic.

Commissioner, I would like to finish this afternoon and I see the time and my best estimate about 15 to 20 minutes.

THE COMMISSIONER: All right.

THE WITNESS: 15 to 20, yes.

20 MR ALEXIS: Now could I tender the further vendor maintenance forms, form I should say relating to the Royal Hospital for Women.

THE COMMISSIONER: Yes. The - - -

MR ALEXIS: Now while that's being dealt with, Ms Lazarus, can I ask you to turn to page 146 of Exhibit 1?---146.

THE COMMISSIONER: The vendor maintenance form signed by Ms
30 Sandra Lazarus on 21 October, 2008 is Exhibit 128.

#EXHIBIT 128 - VENDOR MAINTENANCE FORM SIGNED BY MS SANDRA LAZARUS SIGNED BY MS LAZARUS 21 OCTOBER 2008

MR ALEXIS: Thank you, Commissioner. Now at 146 of Exhibit 1 is the application for access to network services that relates to your sister Michelle?---Yes.

40 And which Dr Burton signed on 22 October, 2008. Do you see that?---Yes, that's correct. Yes.

And I want to suggest to you that when this form was signed you went to Dr Burton, you presented yourself as Michelle Lazarus, the person identified on the form and you asked him to sign it for you and he did?---That's just incorrect.

And I want to suggest to you that you did that for this simple reason, to enable the creation of an email account and computer access by your sister, Michelle with the Royal North Shore Hospital?---That's very incorrect.

And can I suggest that you did that for the purpose of being able to create if necessary a paper trail so as to demonstrate that Michelle was actually in some way involved with the Royal North Shore Hospital and the clinical trials that you wanted to conduct there?---I'm sorry, your suggestion is very incorrect.

10

All right. Now can I ask you to look please at the document as 138, which is the computer access form relating to you. Do you see that?---138? 138, and we've been through this I think to some extent on the previous occasion, but that's the computer form that you signed on 21 October? ---One second, one second.

138?---Sorry, just one moment. Okay, yes.

20 And you see you signed that form on 21 October, 2008?---Yes, that's correct.

And if you go through to the document concerning your email account at page 142, you've signed that form on the same day?---142, yes, that's correct.

And then if I can ask you to come through to the document at 143?---143, yes.

30 And 143 indicates, and perhaps you need to look at 145, which is the reproduction of your display photograph on your identification badge. Do you see that?---That's correct. Yes.

And then if you come back to 143, you see the issue date of your badge was on 22 October, 2008, which seems to line up with the date upon which you signed the various documents. Do you agree with that?---That's correct. Yes.

40 And, as I think we've already discussed the badge was important because as you well understood you weren't able to see any patient in relation to any testing of the Medex device before you received it?---Not in this case, this badge is for the Kolling building not for the Royal North Shore Hospital.

But this was the only badge that you were issued, wasn't it?---That's right, for access to the Kolling building not access to the hospital.

But you had this badge when, as you've told us, you tested Dr Burton's patients and Mr Vaux's patients, didn't you?---No, that's not correct and I've never stated that.

I see. What, are you saying to the Commissioner that when you saw the ten or more patients of Dr Burton's and you saw the 200 patients for Dr Vaux you didn't wear a ID or security badge?---I had a visitor badge, I believe for the, the main building but for the private hospital I didn't need a badge and I was told, so this badge was for access to the Kolling building, for the protonomic project looking at cell proteins and hence there is documentation in the tender bundle to support that.

10 Well, let me just test that with you. If you look at 143?---143?

143 which is the badge holder detailed report which identifies you by name
- - -?---Yes.

- - - and refers to the date of issue - - -?---Ah hmm.

- - - when one looks at the facility one sees RNS and Ryde Health Services.
Do you see that?---That's correct.

20 And do you see about halfway down the page there's a reference to department and it's got surgery department?---That's correct.

And if you look over the page next to company name it's got RNS surgery?
---That's correct.

Now, Ms Lazarus, there's not a word there about the Kolling Institute or anything to do with the university is there?---What they write is not really something I can deal with or I can outline.

30 But my suggestion to you is that your interpretation of this document is completely false, it's got nothing to do with the Kolling Medical Institute and nothing to do with the university?---That's incorrect.

It's a Royal North Shore document relating to the issue of your Royal North Shore badge?---That's completely incorrect. I was taken by the manager and, in the Kolling building. She filled out the form, she also communicated by telephone with Ross Smith and hence the, the badge was allocated to me for the simple use of the cubicle that I was using for the, protonomic project.

40

So Ms Lazarus, you've worked out, haven't you, that if it be the case, as I would suggest it is, that you were not issued with an ID badge until 22 October, 2008 that would render the idea that you had conducted multiple screening tests on patients during the months of September and October a very difficult problem for you to confront in this inquiry, you've worked that out, haven't you?---I'm sorry, I haven't, I haven't calculated anything as you're suggesting so (not transcribable)

Well, on the last occasion I took you through the various invoices that you'd, you'd, you had submitted to the hospital that bear dates in September and October up to 14 October, I put the proposition to you that that related to at least 40 tests and they are tests that were done prior to 22 October, 2008, a proposition with which you agree?---That's correct, yes.

10 So if what this document tells at 143 be correct as to the date of issue of your badge and if it also be correct that you had that badge before you saw any patient that would create a problem for you, wouldn't it, in relation to the performance of tests as you would have the Commission accept as occurring prior to 22 October?---I'm sorry, I don't, understand what you mean by occur, a problem will occur. Like I mentioned earlier this is just simply for the access to the Kolling building which is on, where my desk was on level 8 and that was for protonomic, it had nothing to do with - - -

20 Ms Lazarus, you know very well what the problem is which is why you have sought to characterise this document at 143 inconsistently with what it says on its face as a document relating to the Kolling Institute and nothing to do with the Royal North Shore Hospital?---It has to do with the Kolling Institute, it was the Kolling Institution manager that took me in.

Well, can you explain why on this form there's no one syllable of reference to the Kolling Institute or anything to do with the Kolling Institute?---Well, that's something you're going to ask the hospital, I'm sorry, I cannot answer on behalf of the hospital.

30 Now you recall on the last occasion I asked you some questions about a telephone conversation or conversations you had with Alison McKenzie? ---Can you please refresh my memory as to Alison McKenzie?

Well, I took you to the non-order vouchers in the bundle and perhaps we ought to start at page 230 and the fact that you had annotated the - - -? ---Sorry, can I just interrupt, I hope it's not a crucial point but we've gone over 15 minutes and it's really, I do apologise, if you, I'm sure you noticed in the last two weeks it was really bad.

THE COMMISSIONER: We'll adjourn for five?---Thank you.

40 **SHORT ADJOURNMENT** **[4.25pm]**

MR ALEXIS: Ms Lazarus, I'll come back to Ms McKenzie in a minute. You'll recall on the last occasion I asked you some questions about the draft ethics application with respect to the Royal North Shore Hospital?---Yes.

And I think the position we got to was that you prepared the draft, you provided it to a number of doctors and you are still waiting for their feedback or something to that effect?---Yes, that's correct.

And so it follows doesn't it that no ethics application was submitted to the Royal North Shore Hospital?---That's correct.

And clearly enough none was ever obtained?---Sorry?

10 And clearly enough no ethics approval had been obtained?---No application was put in, that's correct.

Now, on the question of approval do you recall that you told the Commissioner at page 274 of the transcript, transcript line 20 to 30 that before you examined the first patient, or perhaps before there's another objection, before you tested the first patient you obtained verbal go-ahead or verbal approval from Dr Burton and Dr Vaux?---That's correct.

20 And do you adhere to that evidence?---Yes.

Now, can I show you the transcript of evidence that you gave on this subject at the compulsory examination last December and up on the screen will come page 126 of that transcript?---Yes.

Thank you. And do you see that the subject of the submission of an ethics application is dealt with by Ms Daly from line 10, do you see that?---Yes.

30 And then if we scroll down the page because your long answer deals with the subject of other hospitals including Strathfield but do you see down the foot of that page, just scroll down please. Thank you. And you see the Commissioner's question, "We're not interested in Strathfield.", do you see that at line 39?---Yes, that's correct, yes.

And then Ms Daly asks you who. "If you use Royal North Shore as an example, when you use Royal North Shore as an example", and then you see the next question, "Who was the doctor at Royal North Shore Hospital that said you could go ahead?" Do you see that?---Yes.

40 And see your answer, "Professor Ross Smith, he's my supervisor."?---Yes.

See, what I want to suggest to you is that at the compulsory examination on this very subject of verbal ethics approval you said Professor Ross Smith whereas in the public inquiry at page 274 of the transcript you identify Dr Burton and Dr Vaux and importantly did not refer to Professor Smith. Now, do you see the inconsistency in that evidence?---Yes, I do.

Thank you. Well, which evidence is true, the one you gave during the compulsory examination or the one that you gave earlier in this public inquiry?---They're both correct.

Well, are you saying by that that it was not only Dr Burton and Dr Vaux but also Professor Smith?---He's my, he's my PhD supervisor - - -

At page 126 of the transcript - - -?--- - - - for the application purposes.

10 - - - on the compulsory examination Ms Daly clearly asked you to identify the doctor at North Shore that said you could go ahead. And you only referred to Professor Smith, you didn't refer to the doctors that you were dealing with namely Dr Burton or Dr Vaux did you?---That's correct because that's, the project's not outlined in terms of an overall supervisor that was Ross Smith. In terms of the project supervisors - - -

The question clearly asked you to identify who gave you the verbal approval and you only identified Professor Smith?---Well, I'm sorry, I've identified one person in terms of - - -

20

When I asked you earlier in this inquiry to tell us who gave you the approval absent any ethics approval you identified Dr Burton and Dr Vaux and didn't say a word about Professor Smith?---That's correct, for the patients, for their patients. I'm sorry, your questions was, wasn't very clear.

What I want to suggest to you is that the evidence that you've given on both occasions is completely false?---No, that's incorrect.

30 Professor Smith never gave you approval to go ahead without ethics approval?---Yes, all patients - - -

And Dr Burton and Dr Vaux certainly didn't give you approval to go ahead without ethics approval?---They certainly did.

Did they?---They did definitely.

40 And are you prepared to say that these two very senior doctors, these three senior doctors gave you verbal authority to proceed without procuring ethics approval from the ethics committee?---That's correct. And that's common practice regardless of who denies it. I had board approval starting all the way from Strathfield including Royal Hospital for Women as well so in all cases - - -

Can I show you please, thank you, Ms Lazarus. Can I show you please what I understand to be your 2009 diary together with a copy of a page that I'm going to open for 19 January, 2009?---Yes.

And there's a copy, Commissioner, of that page. Now, am I correct in my suggestion to the book before you as being your 2009 diary?---Yes, that's correct, yes.

And is the reference to 19 January a reference to that day in the 2009 year?---Yes, that's correct.

And are they your notes down the page commencing with the reference to Professor Smith at 8.30am that morning?---Yes, that's correct.

10

And do you see the third entry down after the reference to Westpac you've written next to the asterisk at 10 o'clock, "Meet with urologist for the approval of research."?---Yes, that's correct.

Do you see that?---Yes.

And does that correctly record what the purpose of the meeting with the urologist was on that day?---I'm sorry, I cannot even recall what urologist it was.

20

Well, there was only ever Dr Vaux wasn't there?---No, I believe there are about three other urologists.

You only met with Dr Vaux didn't you?---No, that's incorrect. That meeting that he arranged in the café there were I think two others including a nurse as well.

Well, your reference to ten or twelve meetings that you told us about on the earlier occasion all had Dr Vaux present didn't they?---That's correct.

30

And so when you recorded in your diary in January 2009 that you were meeting with the urologist it's likely to be Dr Vaux?---I'm sorry, I would've referred to Dr Vaux as Dr Vaux and not as a urologist and I actually, I'm going by your pronunciation, I've been calling, calling him Vauxan where he hasn't even corrected me.

Well, the pronunciation doesn't matter. The point of it is that you've recorded in your diary that you're meeting with a urologist and my suggestion is that it was Dr Vaux or one of these colleagues who work in the urologist clinic at the Royal North Shore Hospital?---I'm sorry, I cannot go with that suggestion because I've clearly, I cannot recall and clearly I have written, I haven't written who I'm meeting.

40

Well Ms Lazarus, in January, 2009 according to your evidence, the only urologist that you were having any dealings with were those connected with the urology clinic at the Royal North Shore Hospital?---That's not correct. I was also seeing David Dalley as well in procuring a letter from him. So your (not transcribable).

See my suggestion to you is that this is clearly a reference to a proposed meeting with Dr Vaux or one of his colleagues from the urology clinic at Royal North Shore Hospital on 19 January?---I'm sorry, that suggestion is incorrect because I just don't have the information nor can I - - -

And the purpose of the meeting is you've recorded in your own handwriting was for the approval of research?---It would have been a research, but again, I just cannot recall who the urologist was.

10

And the reason why you're not recalling the name of the urologist because you understand the implication of your own file note don't you?---In 2009, I predicted that I would be sitting here, I'm sorry, I just can't believe (not transcribable).

You understand that the implication of your file note is that you were on 19 January, 2009 meeting with the urologist for the approval of research?---For a research, which urologist, which hospital, I'm sorry, I just cannot - - -

20

It's obvious Ms Lazarus, that the implication of the file note is that you hadn't undertaken any research in the area of urology prior to 19 January, 2009?---That's incorrect. It doesn't state that.

Well it says that you're meeting urologists for the approval of research. You can hardly take from that research had already been undertaken could you?---Depends on what institution it is. Like I said, I was still having dealings with David Dalley as well at St Vincent. It could have been with him as well. I'm sorry, I just cannot - - -

30

I tender the extract from Ms Lazarus' diary, Commissioner.

THE COMMISSIONER: The extract from Ms Lazarus' diary for 19 January, 2009 is Exhibit 129.

#EXHIBIT 129 - EXTRACT FROM MS LAZARUS' DIARY DATED 19 JANUARY 2009

40

MR ALEXIS: Thank you, Commissioner. And my learned friend can have access to the diary.

MS SOARS: Thank you.

MR ALEXIS: Now can I return to Alison McKenzie and if you have page 230 of Exhibit 1 before you?---230?

230. That will assist to recall to mind that you spoke with her and arranged to send to her a number of vouchers and invoices for payment?---That would be correct. Yes, hence her name appearing on the, on the, the voucher.

And you spoke to her on the telephone before sending her the vouchers didn't you?---Yes, I would have. Yes.

10 And you told her that you were a medical student conducting research at the hospital?---That would be incorrect.

You told her that you were chasing payment by the supplier?---I'm sorry, that would be incorrect. I cannot recall the conversation, I wouldn't have said that.

Well so your position is that you can't recall the conversation, but it's not something you would have said?---That's correct.

20 But you were chasing the supplier payment weren't you?---I was not.

Well what was the purpose of you telephoning her if you weren't chasing payment?---To basically send this through to her.

For what purpose though?---For payment for work I had completed.

Because you wanted to be paid?---For the work I had completed, yes.

30 And you represented yourself as a researcher and you represented the supplier as one who was chasing payment being a supplier independent of you?---No, that's incorrect.

Well you never told her that you were the supplier did you?---Like I said, I cannot recall the conversation but that's something I wouldn't have said to her and she wouldn't have even asked about it. Like I, I think I was in the hospital when I sent this through to her, again, I cannot recall. I would have called and just sent that through. There would be additional conversation.

40 Now after you had the conversation and you then sent through the various vouchers that we see and could you just look at this, please at 230?---230.

And 231 and what I'm drawing to your attention is every one of them has Alison McKenzie written across the top. So we've got 230, 231?---Yes.

We've got 236 and 237?---Yes. Ah hmm.

Is that so?---Yes, yes, that's so.

We've got 238 and 239?---Yes.

And we've got 248 and 249?---248 and 249, yes.

Thank you. Now these were all the non-order vouchers that you say in your evidence were authorised by Dr Mark Sywak?---That's correct. Yes.

Now when the Commission executed the search warrant they seized a number of documents including non-order vouchers whether completed or incomplete from your home didn't they?---I believe it would have been the completed ones. I don't recall having any incompletes ones.

All right. Can I approach Commissioner?

THE COMMISSIONER: Yes.

MR ALEXIS: Now Ms Lazarus, what I'm showing you is, is the document with the original handwriting, attention Alison McKenzie written across the top for the voucher of 230, the invoice at 231, similarly the voucher at 236, the invoice at 237, the voucher at 238, the invoice at 239 and finally the voucher at 248 and the invoice at 249. Do you agree with that?---Yes, that's correct.

And so what was obtained when the search warrant was executed was the original form of invoice that you sent through to Ms McKenzie after you spoke to her. Is that so?---Yes, that's correct.

All right?---I can't recall but, it's there.

Now I want you to just look at your signature on each of the vouchers that I have just identified and would you confirm for me please that the signature on each of them under your hand is in original ink. Do you see that?---Yes, that's correct.

And would you also look at the signature which is said to be that of Dr Sywak and would you agree with me that both his signature and the date is a photocopy of his signature?---I will have to have a look, I'm sorry, but they're - - -

Well have a good look and I'll step away so you don't feel crowded. But what I'm suggesting to you madam, is that the document that you sent to Ms McKenzie contains your original signature with original ink and a photocopy of Dr Sywak's signature. That's so isn't it?---There are originals available. I know I have originals and these are his signatures.

Now just attend to my question, please. The documents that I've put to you in the witness box now contain your signature in original ink and plainly Dr Sywak's signature is a photocopy. Isn't that so?---Why that's the case, I have no idea.

Well I haven't asked you to explain why, I'm just asking you to confirm what I just put to you as an accurate description of the document. And what I've put to you is accurate isn't it?---No, I think it is pen.

It's obvious when you look at the original of those signatures that they are a photocopy isn't that so Ms Lazarus?---No it's not, it's pen. And he's used the same pen. It's pen. You can see the ball point. I'm sorry, it's pen.

10 What I want to suggest to you Ms Lazarus is that you reproduced these vouchers that were sent to Ms McKenzie by using a photocopy of Dr Sywak's signature and passing that photocopy off as his original signature when they were sent to Ms McKenzie?---That's incorrect because that's in pen and each signature is different. His handwriting is different, the date is different. He signed each document separately. That is not photocopied, I'm sorry.

All right?---That's why, I'm sorry, I don't know why you're suggesting it's a photocopy, it is not a photocopy (not transcribable).

20

Well I'm suggesting it to you madam, because it's obvious when you look at it that it's a photocopy?---It's not a photocopy.

Commissioner, can I tender - - -

THE COMMISSIONER: Can I have a look - - -

MR ALEXIS: - - - the documents that were the subject of those questions. And can I indicate for convenience that I have written in the top right hand corner on these original documents in red ink the reference number to where one finds the copy in Exhibit 1 so that one can work between the two.

30

THE COMMISSIONER: Yes, thank you. The, Exhibit 130 - - -

MR ALEXIS: Now - - -

THE COMMISSIONER: Sorry, Mr - - -

MR ALEXIS: Sorry.

40

THE COMMISSIONER: - - - Alexis, is a bundle of non-order vouchers with Exhibit numbers written in red ink in the top right hand side.

#EXHIBIT 130 - NON-ORDER VOUCHERS WITH EXHIBIT NUMBERS WRITTEN IN RED INK ON THE TOP RIGHT HAND SIDE INDICATING DR SYWAK AS THE AUTHORISING OFFICER

MR ALEXIS: Now, Ms Lazarus, in relation to the non-order vouchers that appear to be signed by Dr Hugh, I want to suggest to you that you never obtained his signature on those forms, you have forged his signature on those documents either by utilising photocopies of his signature that you obtained or by other means and that he never authorised the vouchers by the placement of his signature on those documents?---That's incorrect.

10 I want to suggest to you that you never obtained Professor Burton's signature on the letter of 6 May, 2009 which is at page 277 of Exhibit 1?
---Yes, I've got that.

You never, I want to suggest to you that you forged his signature on that letter to pass it off as a report by him in relation to the content?---That's incorrect.

20 I want to suggest to you that in relation to the letter which contains what appears to be Dr Vaux's signature at page 288 of Exhibit 1 you similarly forged his signature on that document to pass that off as a report from him?
---That's very incorrect 'cause his signature's actually quite an attractive signature and I don't think anyone can forge it so that's a very incorrect statement, yet alone me.

Now, can I come back to Ms McKenzie and can I show you please another series of vouchers that were seized from your home during the execution of the search warrant and these all relate to those that you say you obtained from Dr Back?---Yes.

30 Now, just look at the handwriting across the top of each voucher, you'll see that that's your original writing for the attention - - -?---That's correct.

- - - of Ms McKenzie?---Yes, that's correct.

40 And it's obvious when one looks at each of those vouchers that you have submitted to her, a voucher that contains your original signature and a Dr Back's signature for Dr Pavlakis is a photocopy?---In that case, yes, and I've given evidence to why that was the case, because they had misplaced that and I actually had to go to the pigeonhole and to Michael Back's office to get the photocopy and resubmit that and - - -

But you've given that evidence because you know don't you that, pardon me, that Dr Back has denied providing you with a photocopy of the voucher that he signed on behalf of Dr Pavlakis and you know that what was submitted to Ms McKenzie contained a photocopy of his signature, that's why you've given that evidence, isn't it?---That's incorrect because if you can see the invoice numbers they're the same, it's not an overpayment or any deception, it's just a mere photocopy that was sent through because the original could not be found.

I tender those documents, Commissioner, and again - - -?---As you can see, the invoice number hasn't changed.

And again I've indicated by writing in - - -?---It's the same invoice.

- - - red ink at the top right-hand corner the cross-reference to the Exhibit 1 page. Now - - -

10 THE COMMISSIONER: Just a moment.

MR ALEXIS: Yes, I'm sorry, Commissioner.

THE COMMISSIONER: The previous exhibit, did that, were they non-order, were they non, to what hospital did those non-order vouchers relate?

MR ALEXIS: Royal North Shore Hospital.

20 THE COMMISSIONER: And this one as well?

MR ALEXIS: As well, yes.

THE COMMISSIONER: And who is the name of the, the supplier in the first one? I'm trying to identify them.

MR ALEXIS: Yes, of course.

30 THE COMMISSIONER: Because the two bundles are the same.

MR ALEXIS: The alleged authorising officer in the previous tender was Dr Sywak. The alleged authorising officer in the subject tender is Mr Back.

THE COMMISSIONER: Well, Exhibit 130 will have the additional identifying comment that the authorising officer for those is Dr Sywak and Exhibit 131 is a bundle of non-order vouchers with red ink on the top-right side with the authorising officer as Dr Back.

40 **#EXHIBIT 131 - NON-ORDER VOUCHERS WITH EXHIBIT NUMBERS WRITTEN IN RED INK ON THE TOP RIGHT HAND SIDE INDICATING DR BACK AS THE AUTHORISING OFFICER**

MR ALEXIS: Thank you, Commissioner. Now, this is the final matter I want to deal with, Ms Lazarus. Can you turn please to page 291 of Exhibit 1?---291, yes.

And do you see that the invoice number on that voucher commences with the numbers 1-1-8?---(NO AUDIBLE REPLY)

Do you see in the middle of the page?---1-1-8, yes, I can't, it's sort of blacked out.

THE COMMISSIONER: Under invoice number is it?---Yes, yes.

10 MR ALEXIS: Thank you. And on page 293 we have invoice number commencing 1-1-9?---Yes.

And then at 295 we have invoice commencing 1-2-0?---Yes.

And now on page 297 we have invoice commencing 2, I'm sorry, 1-2-1? ---1-2, yes.

20 And then when we go to the next invoice we go to a different invoicing number system because these relate to Wish at 121 and following, just have a look at the following invoices in the bundle?---Yes.

And so, just coming back to 121 on page 297, that was the last invoice that was issued on behalf of Complete Health and Medicine?---That's correct.

Is that so?---That's the last one you have.

Yes. Now, would there have been any reason to ask and procure from Dr Pavlakis his signature on non-order voucher forms that were unrelated to any invoice that you wanted to be paid?---What do you mean, sorry?

30 Well, would there have been any reason for you to go and see Dr Pavlakis and get him to sign a non-order voucher when there was no invoice that the voucher related to?---When I approached him all vouchers had the invoice behind them.

You've told me I think multiple times on the last occasion that whenever you got a voucher signed you had the invoice that related to that voucher with it?---That's correct, yes.

40 Now, could I approach, Commissioner?

THE COMMISSIONER: Yes.

MR ALEXIS: I'll show you another series of vouchers which were seized from her home when the search warrant was executed?---Yes, yes.

Can you see that the invoice number, just for identification purposes, and these are all invoices generated by Complete Health and Medical of course - - -?---Ah hmm.

- - - start with the (not transcribable) 1-2-2, 1-2-3, 1-2-4, 1-2-5 and 1-2-6, do you see that?---Yes.

And take your time if you need to but can I suggest to you that none of the vouchers commencing with the numbers 1-2-2 or 1-2-6 were ever submitted for payment and of course they're not reproduced in your bundle which contains multiple vouchers and invoices that were submitted to the hospital for payment. Rather than just putting your hands in the air can you explain
10 whether that's so or not?---I cannot recall sorry. I'm just going to go by what you're saying and what's produced in here. I'll have to look at bank statements to ensure - - -

You see, what I'm suggesting to you is that when the search warrant was executed - - -?---Yes.

- - - part of the documentation that was recovered from your home - - -?
---Ah hmm.

20 - - - was vouchers that were not connected in any way to any invoice and vouchers which were not or had not been submitted to the hospital for payment which contained Dr Pavlakis' signature?---They all contained Dr Pavlakis' signature and the invoices should be there as well either in electronic form or in hard copy and they're probably more than likely are in hard copy, they should have been found.

THE COMMISSIONER: Is there any reason either for them not to have been submitted to the hospital?---I probably was in the process of submitting, I probably did not submit because of the whole conflict that
30 occurred and was advised otherwise by either Vern, well, I shouldn't say Vern, it might be Medex, it's either Vern or David to what Johel had done in terms of payments and things like that or what kind of conflict they might be having.

MR ALEXIS: You see, what I want to suggest to you is that those invoices from 122 to 126 inclusive that are before you in the witness box were never submitted with any invoices for payment to the hospital?---I don't think they were submitted for, for payment.

40 And I want to suggest to you that it is completely anomalous having regard to your evidence that you would have in your possession vouchers signed by a Dr Pavlakis that are unrelated to any invoices and were not submitted to the hospital for payment?---Sorry, what do you mean in regards to that?

I'm sorry?---Sorry, can you repeat that.

Well, it's a curious thing isn't it, Ms Lazarus, that in your possession when the search warrant is executed you had vouchers apparently signed by Dr

Pavlakis that were unconnected with any invoice and had not been submitted for payment?---The invoice would've been there either in, like I said either in hardcopy or electronically, more than likely hardcopy because it would've been submitted.

So what it indicates - - -?---I don't really have a filing system so - - -

10 What it indicates is that you were preparing further vouchers for submission to the hospital and you had already prepared the vouchers for submission complete with both your signature and that of Dr Pavlakis?---That's just completely incorrect.

Well, how do you explain possession of vouchers unrelated to any invoice containing Dr Pavlakis' signature in your possession?---I'm the creator of the invoices and therefore he would've sighted the invoices when he had that, it's just a matter of locating them. It's not a question of, I can reprint them if you like, that's not an issue.

20 I'm sure you can?---They just haven't been submitted for the same reason the originals that you have found as well including the ones that I have signed either in terms of Michael Back either a photocopy or an original that you have all the originals that were found in my possession upon execution of the search warrant.

Is that your best explanation for the proposition I've just put to you?---In terms of why they don't have invoices these were, I think, found either on my floor in my room or I don't, I can't recall where they were found but if you require the invoices I'm sure they're probably located on the hard drive.

30 But we wouldn't find on your hard drive those apparently signed by Dr Pavlakis would we?---What do you mean?

We would not find on your hard drive non-order vouchers apparently signed by Dr Pavlakis would we?---Non-order vouchers, sorry, you're not making sense. You wouldn't find non-order vouchers?

40 What the document in your possession at the time the search warrant indicates is that you had gone ahead and forged Dr Pavlakis' signature on vouchers in respect of which there did not exist any invoices?---Firstly, the signature's not forged, again, that's their evidence and my evidence and unless forensic analysis can be carried out I don't think that can be disputed. Secondly, there's no invoice, there would've been a hardcopy and when I submitted this to him would have been given to him. Why it's not located by you in terms of, the ICAC in terms of the execution of the search warrant is not something I can answer, I'm sorry.

But can you attend to the point of my question. How do you explain possession of a voucher with Dr Pavlakis' signature when there is no

connecting invoice and the voucher was never submitted for payment?---It hasn't been faxed through yet. That's the only thing, that's the only explanation. Like the other invoices non-order vouchers with authentic ink signatures were found at my place upon the execution of the - - -

The other point about the vouchers in your possession at the moment, madam, is that they don't have any date on them?---That's correct.

10 And so that indicates, doesn't it, that you were proposing to use those vouchers at some point in time and at the time you decided to use them you would've then dated them?---No, that's completely incorrect. I usually do date but you will notice that there are times where the professors haven't dated something, mainly him actually, there are invoices and originals you have - - -

Just answer me please. Can you explain to me please why you had in your possession vouchers apparently signed by Dr Pavlakis unrelated to any invoice that were not dated?---Well, I'm sorry, you'll have to ask him that in terms of - - -

20

THE COMMISSIONER: You're being asked that because you created the invoices and they were found in your possession, you're the best person to explain it?---Well, they date's always handwritten and he's just overlooked that. In terms of me I always date my work, again, it's just something that's overlooked but if you go to page 278 - - -

How would he know what date to put on if he wasn't given the invoice that should accompany it?---He puts, they put the date on the day they sign not the invoice date. As you can see in evidence to page 278 and 279.

30

MR ALEXIS: Commissioner, I tender that bundle of documents before Ms Lazarus and, Commissioner, can I indicate that I appreciate you sitting on to enable me to finish, it's taken a little longer than expected but that's all I wish to ask Ms Lazarus.

MS FURNESS: Can I just inquire whether the security statement has been tendered?

40 MR ALEXIS: Yes, I'm sorry. I indicated that a statement dealing with the issue of the ID security card - - -

THE COMMISSIONER: Can I just deal with this one?

MR ALEXIS: Yes, of course.

THE COMMISSIONER: This is a bundle of non-order vouchers apparently signed by Dr Pavlakis and that's Exhibit 132.

**#EXHIBIT 132 - BUNDLE OF NON-ORDER VOUCHERS
APPARENTLY SIGNED BY DR PAVLAKIS**

MR ALEXIS: Thank you, Commissioner.

THE COMMISSIONER: And then the statement?

10 MR ALEXIS: Yes. There's a statement by a Ms Sasa Radulovic dated 11
February, 2011.

THE COMMISSIONER: Sorry, I didn't get that date.

MR ALEXIS: Sorry, the date or the name?

THE COMMISSIONER: Date.

20 MR ALEXIS: 11 February, 2011.

THE COMMISSIONER: The statement by Sasa Radulovic dated 11
February, 2011 is Exhibit 133.

**#EXHIBIT 133 - STATEMENT BY MS RADULOVIC DATED 11
FEBRUARY 2011**

30 MR ALEXIS: Thank you, Commissioner.

THE COMMISSIONER: Yes, Ms Soars.

MS SOARS: Commissioner, I received that statement at about quarter to
5.00 and I haven't had a chance to read it or refer it to my client. Could I
reserve my position in relation to whether he's required?

THE COMMISSIONER: Of course.

40 MS SOARS: Thank you.

THE COMMISSIONER: We will adjourn until 11.00am tomorrow and Ms
Furness, will you be here tomorrow?

MS FURNESS: I will.

THE COMMISSIONER: And you'll be cross-examining?

MS FURNESS: I will.

THE COMMISSIONER: Yes.

THE WITNESS WITHDREW

[5.07pm]

AT 5.07pm THE MATTER WAS ADJOURNED ACCORDINGLY

[5.07pm]

10