

CHARITYPUB01032
25/02/2011

CHARITY
pp 01032-01084

PUBLIC
HEARING

COPYRIGHT

INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CHARITY

Reference: Operation E10/0035

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 25 FEBRUARY 2011

AT 2.05PM

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.

THE COMMISSIONER: Ms Lazarus, can you return to the witness box please.

<JESSICA LAZARUS, on former oath

[2.06pm]

10 MR ALEXIS: Ms Lazarus, you've been shown Exhibit 1, the bundle of documents, can you open that to page 26 please. Do you see that as a letter from the Royal Hospital for Women to the Human Research Ethics Committee bearing date 10 April, 2008?---Yeah.

Have you seen that letter before?---I can't remember.

Can you turn to page 28 please. And do you see that page is a form of application, you see the words across the top National Ethics Application Form?---Yep.

20 Could you look at that page and turn through each page and please look at each page. And can you keep turning until you get to page 54 on the top right-hand corner?---Yeah.

Now, have you ever seen that form of application before either in paper format or reviewed an application like that on a computer screen online? --- (not transcribable).

What about in paper form, in a hardcopy, have you ever seen something like that before?---Yeah.

30 Where did you see it?---It was in the ICAC folder.

All right. Now, before seeing it in the ICAC folder had you seen that document before?---I think so.

And when was that?---Really long time ago when we were doing tests for the Royal Hospital for Women.

All right.

40 MS FURNESS: I'm sorry, I didn't hear that answer.

THE COMMISSIONER: A long time ago when you were doing tests for the Royal Hospital for Women.

MS FURNESS: Thank you.

MR ALEXIS: Now, turn to page 57 please of the bundle. And is that your signature at the bottom of that page next to the words Associate Researcher?---Yes.

And is that your handwriting in relation to the date 10 April, 2008?---I think so, yes.

Now, in relation to that date what can you tell me about when it was that you saw this document?---Well, it says 10 April, '08.

10

So what does that mean? You saw the document before you signed it on that day or what?---I would've seen it on the day 'cause that's the date that I marked on it.

I see. Now when you signed this document did you understand that you were signing it as an associate researcher for the hospital?---I think so 'cause I would have known at the time, like, and I knew at the time that I was going to be doing the tests.

20

So did you look through all of the pages that I've just asked you to look at before signing the document at page 57?---I probably would have at the time.

And what did you understand as an associate researcher you were being referred to in that capacity to do?---Testing on patients.

To what, sorry?---Testing on patients with the Medex device.

30 All right. And when you came to sign this document in April, 2008 did you expect to be paid for whatever work you were going to be doing?---Yes.

What did you expect to be paid for your work?---A few thousand.

And what should we - - -

THE COMMISSIONER: A few thousand what?---Dollars.

For what?---For testing the patients.

40

Per person?---No.

Then what?---For the entire amount of tests that I was doing.

How many were you going to do?---I don't know how many I was supposed to do, but I ended up doing something like 10 I think.

MR ALEXIS: Ms Lazarus when you signed this form you've told me that you had an expectation that you were going to be paid for your work?---Ah
hmm.

So as at 10 April, 2008 how much did you expect to be paid for doing that work?---Like I said a few thousand for all the tests that I was doing.

10 And how was that few thousand for the tests you were going to be doing, how was that going to be worked out?---I'm not sure 'cause I didn't work out all the money stuff.

All right. Did you really have an understanding when you signed this document that you were going to be paid?---Yeah, 'cause my sister told me.

And were you going to be paid per patient that you saw?---I'm not sure.

20 Exactly. If you saw five patients you'd get paid so much and if you saw 20 patients you'd get paid four times as much, something like that?---No, I don't think so.

Well what was your understanding madam, about how you were going to be paid in relation to seeing patients?---I was just told that I would be paid for the work that I was doing. I didn't know how it was like (not transcribable) or something like that.

Did you have any knowledge as to whether or not your sister, Sandra, who you'll see also has signed on this page 57 as the principle researcher - - -?
---Ah hmm.

30 - - - did you know how she was going to get paid?---No.

She never discussed that with you?---No.

Did you understand that she was going to obtain a scholarship?---No.

Didn't you read this document before you signed it?---I don't think I read it thoroughly enough to know that.

40 Well have a look at page 54. And do you see - - -?---Yes.

- - - that it talks about project funding? Do you see that?---Yep, I do.

And it says indicate how the project will be funded. Do you see that?
---Where sorry?

And do you see next to the box that has the word "other" contained within it, the box with the word "confirmed" is highlighted and you see the words 100 per cent of the project. Do you see that?---Yes.

And then in the box immediately underneath it the name of funding provider is referred to and the words "University PhD scholarship" appears there. Do you see that?---Yes.

Now you understood didn't you at the time you signed this document that your sister was going to be paid through some scholarship?---No, 'cause I didn't read it that thoroughly, like the first time ever reading it like thoroughly 'cause you're pointing it out.

10

Well madam, you've told us that you expected to get paid for the work that you were doing at the hospital. You've told us that haven't you?---Yes.

And you understood didn't you that your sister was going to get paid as well?---Well I'd say so 'cause then - - -

Well how else was she going to pay you if she wasn't getting paid?---That's correct.

20

Do you agree with what I've just put to you?---Yes, I do.

You understood she was going to get paid?---That's correct.

Well where was she going to get paid from?---I'm not sure.

So you went into this did you expecting to be paid but not knowing where your sister was going to be paid from?---That's correct.

30

Is that a serious answer to my question?---Absolutely.

All right. Now, before you signed this document at 57 had you met anyone at the Royal Hospital for Women in relation to what this document related to?---I think it was before or after, I can't remember when I met like Dr Hacker and the lady at the desk and, yeah.

Ah hmm. And who's the lady at the desk you say you met?---She's a receptionist, I understand her name's Helen.

40

So you met a lady called Helen did you?---Yes, but I'd forgotten her name at the time but then - - -

So is your evidence and I would ask that you think carefully before answering these questions - - -?---Okay.

- - - Ms Lazarus?---Okay.

Is your evidence that before you signed this ethics application at page 57 - - -?---Yes.

- - - on 10 April, 2008 as indicated on that page - - -?---Yes.

- - - you had met and spoke with Professor Hacker at the hospital?---I said before or after, I - - -

Well, I'm trying to understand whether it was before or after?---I'm not sure, sir.

10 All right. And when was it in relation to signing this document that you met Helen?---I would have met her the same time, either before or after, I can't remember 'cause I, I met Dr Hacker and her for the first time together.

All right. Now, if it was after you signed this form - - -?---Ah hmm.

- - - when in relation to your signing of the form did you first meet Professor Hacker and Helen?---That's what I'm trying to say, like I can't remember exactly when, if it was after like you're suggesting then it's after, I can't tell you like what month. Like I couldn't even remember what year I got that
20 Medex training, I had to look at the certificate to remember.

All right. Now, your counsel Mr Hogan has provided to us the original security pass. Can I show you that please?---Yes.

Just so that we're clear about what it is that we're referring to and do you see that as a security pass with your photograph on it?---Yes, that's correct.

Now, did you obtain the security pass at the time that you met Professor Hacker and Helen?---Yes.
30

Either before or after you signed this application?---Oh, I've made the pass when we met Professor Hacker and Helen on that day that we met them for the first time and so we got to the hospital, well, we went in a cab and it dropped us off in that cul-de-sac region and then we went through the auto doors and stuff and I think it was upstairs where his office and stuff was and then we had like some chit-chat and then it was mentioned that we have to go to the security office to get this pass and that's where we got it.

And this all happened on the same day?---Yes.
40

And this all happened before you saw the first patient at the hospital?---Yes.

Are you sure about that?---Yes.

Absolutely sure about that?---Yes.

How long after you got your pass did you see the first patient?---I think it was very soon after, I can't remember exactly when because I was like in and out of uni.

Now, in relation the work that you say you did seeing patients and I'll come to some detail - - -?---Yes.

- - - were you actually paid for that work?---Yes.

10 And how much were you paid?---I thinking about a few thousand.

And can you remember how long, if it was after signing the ethics form on 10 April, 2008 it was that you got your security card and saw your first patient?---Sorry, can you please say that again?

Yes, how long after you signed the ethics form at page 57 was it that you got your security card and you saw the first patient?---That was the same time that, I got my security card the same time that I saw Dr Hacker and Helen for the first time and I told you like I can't remember.

20

Well, was it a day after 10 April or a week after or a month after or what? ---I can't remember.

Well, was it reasonably shortly after or was it months after?---That's what I'm trying to say, like I can't remember exactly, like I can't even give you a month or something because like I just can't remember.

All right. Now, do you remember in May 2008 you purchased a property in Marquet, that's M-A-R-Q-U-E-T Street, Rhodes?---Yeah, that was something that Sandra organised, I don't know how it was purchased or what.

30

Sorry?

THE COMMISSIONER: I beg your pardon?---That was something that Sandra organised.

And what did you say at the end?---So I don't know how it was purchased or how it was organised or anything like that because that's not what I took care of.

40

All right. Well, let me show a document and this might help - - -?---Okay.

- - - to refresh your recollection?---Okay.

Can I provide you with a copy, Commissioner. Now, firstly, Ms Lazarus, can you see, if you run your eye down the page on the left-hand side there's

a capital letter (H) next to the word transferee, do you see that?---No, I can't see it.

Thank you. And in the box we see your name as to 80 per cent and your sister Sandra as to 20 per cent, you see that?---Yes.

And does that help to recall to mind that you bought this apartment at Rhodes in the division that we see referred to in that box?---What do you mean by division?

10

Well, you owned it as to 80 per cent, she owned it as to 20 per cent?---Oh, yep.

And do you see the date written on the transfer under which you and your sister bought the property 29 May, 2008?---Yes.

Now, was this the first piece of real estate that you'd ever purchased?---Yes.

20

And I think we should understand that this occurred in the first semester of your third year as a university student at the University of New South Wales?---No, that's not right, I told you the second year my uni was spread over two years. I wasn't in third year until 2009.

Perhaps you didn't hear my question. Does 29 May, 2008 fall within your third year of study in 2008?---It would still be second year of study.

30

All right. In any event we should understand that in May 2008 you were at university?---Yeah, but I was, like I said I wasn't taking the courses that I was supposed to be taking after fulltime study.

Well, you were a fulltime university student in May of 2008 weren't you? ---No.

Well, what were you doing when you weren't at university?---What do you mean?

What were you doing when you were not at university in May 2008?---I was at home, I think I was working on the cosmetics stuff.

40

All right. Now, remember I asked you a while ago when it was after 10 April when you signed the ethics application you saw Professor Hacker, obtained your security pass and saw your first patient, remember I asked you that?---Yes.

Now, did all of that happen before you purchased this property at Rhodes in May of 2008?---I can't remember that.

But purchasing your first piece of real estate is a fairly significant thing isn't it?---Yeah, but like I didn't even know how much of it I had, like when I look at 80 per cent I'm like whoa, that's heaps.

Is that a serious answer, Ms Lazarus?---Yes, it is.

You didn't know that you were buying 80 per cent of this property?---I promise.

10 In any event did you have money available to you in May of 2008 to buy this property?---Yeah, like I said my sister set it up and I think she was paying me for all of the cosmetic work and stuff 'cause she'd give me money on and off and like she said, This is your pay, like I've taken out the tax and whatever else needs to be taken out. And I said to her, Look, why don't you take out whatever else you need 'cause I don't really need the money that much.

20 Can you attend to my question please? Did you have the money in May of 2008 to buy this property?---Not me personally, not with me.

So did you go and approach a bank for a loan?---I think so, I think I went with my sister and I can't remember the details but I remember we did go to a bank and I think it was St George.

All right. Can I tender the transfer, Commissioner.

THE COMMISSIONER: Yes. The transfer to Jessica Lazarus and Sandra Lazarus on 29 May, 2008 is Exhibit 62.

30

#EXHIBIT 62 - TRANSFER OF PROPERTY TO JESSICA LAZARUS & SANDRA LAZARUS OF 29 MAY 2008

MR ALEXIS: Now, Ms Lazarus, you said that you remember going somewhere with your sister and you think it was the St George Bank. May I suggest that it was the St George Bank at Mount Druitt?---Yes.

40 And that's fairly close to your home isn't it?---Yes.

And do you recall who it was that you saw at the St George Bank branch at Mount Druitt?---No.

Do you recall speaking to someone there about obtaining a loan?---We did speak to someone, but I don't know what it was about.

Sorry, I didn't hear the first part of your answer?---We did speak to someone, but I can't remember what exactly what it was about.

THE COMMISSIONER: Well what did you go to the bank for?---I think it had something to do with the house, but like I said, I can't remember the exact details.

Well I cannot understand that. You go to the, how many times have you been to that bank before?---I don't bank with St George, so I don't think I've been there ever before.

10 And you've never been there again?---Not that I can remember.

So what did you go there for?---We spoke to this lady, but I can't remember what it was about. I know it had something to do - - -

I'm not asking you what you spoke to her about. What was the purpose of your visit to the bank?---Oh, I went with Sandra to do something to do with the house.

20 MR ALEXIS: You went with Sandra for the purpose of obtaining a loan from the bank to buy the apartment at Rhodes. Is that right?---I think so.

Well can there be any doubt about that, Ms Lazarus?---What do you mean?

Can there be any doubt that you went to the St George Bank at Mount Druitt for the purpose of trying to obtain a loan to buy the apartment that we know you did at Rhodes?---I don't really understand what you mean.

30 Well Ms Lazarus, when you went to the bank did you provide the person you spoke to with some information about your financial situation?---Yeah, I think we did actually, you're right.

And were you present when Sandra provided information to the bank about her financial situation?---I think she may have.

40 And as the information was being provided was that typed into a computer as the discussion continued?---I'm not too sure if she had a computer on her, 'cause it was in like a, like a room, it wasn't like, you know when you go to the teller and they've got a computer right there, it wasn't like that. It was like in a room and I can't remember if she had a, oh, yeah, she did have a computer.

Yes. And as you were talking she was entering information from what you could see into the computer. Is that so?---I think so.

And then after the discussion a document was printed out from the computer which was shown to you. Remember that?---I can't remember that.

Well you remember signing some, some documents at the bank when you were there?---I think I did. But I don't remember what they were.

And, and did the document that you signed at the bank follow the discussion where you provided information about your financial situation?---I think so, yep.

And after your sister Sandra provided information about her financial situation?---I'm not too sure about her stuff.

10

Well you were there weren't you?---Yeah, but like I said I can't remember exactly what happened and what was shown and what was given back.

And after the information was given do you remember signing some documents do you?---Vaguely.

Now can I ask you this, when you were speaking to the person at the bank and provided the information about your financial situation - - -?---Yes.

20

- - - did you tell that person the truth?---Yes.

Did you understand that the information that you were providing to that person was important information that the bank would need to work out whether to lend you the money or not?---Well everything you give to the bank is important. Right?

But you know that the information that you gave to the bank would be used by the bank and relied upon to work out whether to lend you the money or not?---Well I suppose so, yeah.

30

Well can there be any doubt about that Ms Lazarus?---What do you, sorry, I don't understand when you say that.

Can I show you this document? With a copy for you, Commissioner. Now you'll see in the bottom right hand corner, Ms Lazarus some page numbering. You see the first page it says page 1 of 16. Do you see that? ---Yes.

40

What I'd like you to firstly do is to turn through please to page 13 you'll see in the bottom right-hand corner. Tell me when you're at that page, please. Now, do you see the St George Bank Mount Druitt facsimile imprint across the top of the page there?---Yeah.

Now, and is your signature beneath the words "Signature of applicant," do you see that?---Yes.

And is that your writing "15 May, 2008" next to your signature?---Yes, I think so.

And just for clarity there are in fact two signatures underneath the words "Signature of applicant." Is yours the first appearing as we run down the page?--Yes.

Thank you. And can you also turn to the next page, page 14 and again is that your signature on the page next to the date "15 May, 2008?"---Yes.

10 And this is a document that I wish to suggest you signed at the St George Bank at Mount Druitt - - -?---Ah hmm.

- - - on the 15th of May, 2008?---Yes.

By the time you went to the bank to talk about the matters that I'm going to come to in a moment, had you seen Professor Hacker or Helen or see any patients at the Royal Women's Hospital by this stage?---I can't remember.

Are you sure about that?---Absolutely, I can't remember.

20 Now, just back on page 13 there's some words in capitals written across the page, at the top of page 13? Do you see the words in capitals?---Yes.

"Please take care to ensure the information you give us in this application is correct," do you see that?---Yes.

Do you see the next bit, "We rely on the information to decide whether or not to approve your loan." Do you see that?---Yes.

30 And I think you'd accept it from me that when you gave the information you knew that it was going to be important to be truthful about what you said to the bank?---Yes, yes.

And you already accepted from me I think that you knew that when you gave the information to the bank you knew the bank would be relying upon it to determine whether or not to lend you the money?---Yeah, but I never remember reading that line.

40 Well, whether you read it or not that's what you understood isn't it, you've already told me that I thought?---Yeah.

Yeah. Now just come back to the front page please and then turn through if you would to page and do you see about a third of the way down the page under the heading "Applicant 2" your name appears?---Yes.

And, pardon me, the document correctly identifies your address at the time, is that right?---No, that's spelt incorrectly.

Well, you lived at the property at 33 - - -?---Pangari, not Paragari.

All right. But save for the typographical error it was correct at the time that that was your home address?---Pangari.

And your date of birth, is that accurate there, 4 December, 1987?---Yes, that's correct.

And at the time in May 2008 were you single and is that your mobile telephone number?---Yes, that's correct.

10

Thank you. Just turn over the page, you'll see at the top of page 4 the document in relation to your employment status says "full-time employee," do you see that?---Yes, that's correct.

And was that true in April, I withdraw that I'm sorry, May 2008 that you were a full-time employee?---Yes, because I was working on the cosmetic stuff I was telling you about earlier.

20 And do you see in the next line it says "Occupation" and the word "Professional" is written there?---Oh, yes.

Can you tell me what that was intended to indicate to the bank in May 2008?---I think it just means, meant that I was working on the cosmetic stuff. It should have been probably more like descriptive I think.

30 But what were you doing in a professional capacity in May 2008?---I told you, I was working on the cosmetic stuff like the manufacturing of cosmetics from like natural ingredients and I was researching it, not only that time but all the way from 2006 and I'm still researching it now because I want to do something that - - -

THE COMMISSIONER: Were you working in a full-time capacity on these cosmetics?---Full-time, I reckon I was because I was putting in heaps and heaps of hours, I was working late at night.

Every day?---Yeah, every day.

40 From what time to what time?---You see, sometimes I'd go to like 2 o'clock in the morning or - - -

How many hours a day?---I reckon maybe eight.

And how long had you been doing that for?---Like I said I was, we actually came up with the idea a long, long time ago in 2006 and then I started working full-on, I started working full-on with this stuff in 2007, 2008 and I think even 2009.

MR ALEXIS: Now, Ms Lazarus, do you see just dropping down from present employer, and I'll come back to that, a few lines to previous employer, do you see that?---Yes.

And you see you've written there university student?---Did I write that?

Do you see that it's recorded there university student?---Yes.

10 Now, it would be quite wrong to say in May of 2008 that you were not a university student and that you had previously been a university student wouldn't it?---I think that's a really wrong way of saying it because it doesn't mean that you're currently a uni student, you can't have previously been a student.

But see how the form says present employer Wish Consulting?---Yes.

And it says previous employer university student?---Yes.

20 What you told the bank was that you had been a university student but you were then in May 2008 employed on a fulltime basis with Wish Consulting in a professional capacity, that's so isn't it?---Yes, that's correct.

That's what you told the bank?---I must've if you're saying that that's the information that they took from me.

Well, if that's what you said to the bank that was completely false wasn't it?---No, that wasn't.

30 Because you weren't a fulltime employee with Wish Consulting in May of 2008 were you?---I was.

Do you see years of service next to Wish Consulting and do you see the reference to zero years one month?---Yes.

40 So is your evidence to the Commission that as at 15 May, 2008 when you signed this document you'd been employed in a professional capacity with Wish Consulting for a month?---I don't think it was a month I think it was more than that because I was working all over the uni holidays really intensively on this so it couldn't have been just a month.

Just open Exhibit 1 please to page 84. Now, do you see this letter from Wish Consulting addressed to you dated 17 April, 2008?---Yes.

About a month before 15 May when you signed this document?---Yes.

And just have a look at the letter of appointment which is attached to the letter and starts at page 85 and goes through to page 91, do you see that?---Yes.

And on page 91 is that your signature next to your printed name?---Yes.

And having signed that document where I've just indicated did you also put the date 17 April, 2008?---It looks like my writing.

10 So is it the case just coming back to the bank document that when you provided information to the bank about your financial situation you told them that you'd been employed in a professional capacity with Wish Consulting and that you'd been so employed for about a month and you provided them with a copy of this letter and a copy of the letter of appointment to support the salary that you said to the bank you were then earning at 87,000 per annum?---Like I said I can't remember what documents were given to the bank.

Ms Lazarus, I want to suggest to you that this letter at page 84 together with the attached letter of appointment was a document that you provided to the bank to support your application for the loan?---Okay.

20 Well, do you accept that or don't you?---Well, it's consistent with the one month thing here so I'd say yeah. That's really silly because I was working for ages before then and during the whole uni holidays.

But leaving aside the consistency between the one month written on the form and the fact that this letter is dated about a month before you signed the bank application form just leaving that consistency aside you know don't you that this letter, that is, the document at 84 and following of Exhibit 1 was provided to the bank in support of this application for a loan? ---No, I don't know that because like I said I can't remember exactly what documents so I can't say that I know this for sure.

30 But you're prepared to accept because it would otherwise be an extraordinary coincidence don't you think that on the application for the loan you indicate one month of service and that ties in precisely - - -?---All right. All right.

- - - give or take a day - - -?---Yes, you're right.

40 - - - the document at page 84 and the agreement from page 85?---Yeah, that's what I mentioned (not transcribable) consistent.

Thank you, you did. And based on that consistency you accept don't you that the letter at 84 and the document from 85 was provided in support of the application?---I will accept that.

Thank you. Now do you see just a line or two below what we've just been examining, it says yearly gross income. Do you see that?---Where, sorry?

Back to the bank application form on page 4?---Page 4.

It says yearly gross income. Do you have that?

THE COMMISSIONER: Is the same page where you saw the words university student. Page 4 of 16?---We've got page 4 but we can't the 87,000.

10 MR ALEXIS: Ms Lazarus, you have the application open at page 4. Do you see the words at the top of the page employment?---Yes.

And then if you drop down four or five lines you'll come to a heading yearly gross income?---Yearly gross income?

Yes, thank you?---Yep.

And then if you run horizontally across the page you'll come to a heading rental. Do you see that?---Yes.

20 \$13,780?---Yes.

What did that relate to in May of 2008?---I have no idea.

And you see that you've expressed your total annual income in the same amount, namely \$13,780. Do you see that?---Yes.

30 So therefore at the time of this application you were saying to the bank weren't you that you had some rental income and you were about to start this professional position with Wish Consulting earning a salary of \$87,000. That's so isn't it?---I'm not sure.

If, as you've put to the Commissioner, you had earned earlier in the 2008 year the money set out in Exhibit 35, which was the payslip that I took you to earlier?---Oh, yep.

And let me be fair to you and show you another copy of Exhibit 35. If the position be that you had earned that money, Ms Lazarus - - -?---Yes.

40 - - - why was it that you didn't tell the bank that you'd earned that money from Wish Consulting earlier in the year?---I'm not too sure.

Well the true position is that you in fact didn't earn that money from Wish Consulting earlier in the year isn't it?---Why not? I was, I was being given money from my sister for all work I was doing and that.

THE COMMISSIONER: Well why didn't you tell the bank that?---St George Bank?

Mmm?---I'm not too sure. I think Sandra was telling her something.

It's a document that you signed?---Which one sorry?

The 16 page document?---Yes.

10 MR ALEXIS: Now can I just ask you in relation to the letter at page 84 of Exhibit 1 and the appointment agreement that you signed on 17 April, 2008. That document in so far as it represents you as an employee on a commencing base salary of \$87,000 per annum, did not represent the true position in April, 2008 did it?---I can't see the 87,000 again.

If you look at page 85 you'll see paragraph 4 with the heading, remuneration. Do you have that?---Yes, I can see the 87,000 now.

All right. So can I come back to my question?---Yes.

20 This letter at page 84 and the agreement commencing at page 85 did not represent the true position in April, 2008 in so far as your employment on that salary was concerned did it?---I don't understand.

What I'm suggesting - - -

THE COMMISSIONER: It was not true that you were being paid \$87,000 a year by Wish Consulting as at 17 April, 2008 is it?---I think, I think it was true 'cause I was still working with that cosmetic stuff. And those were the payslips for that cosmetic stuff is what I understand.

30 MR ALEXIS: Ms Lazarus, I'd like to show you some evidence that's been given already in this inquiry?---Okay.

Could we have page 583 of the transcript up please, 5-8-3. And while you're looking at this on the screen just have page 84 open in front of you please. Now, do you see just above line 20 my name and can you see in the question there that I'm referring to your sister Michelle when she was giving evidence to the document starting at page 84, do you see that? ---Sorry, can you say that again?

40 Just look at the transcript and the officer is giving you the hardcopy to follow if it's easier. Do you see on page 583 at line 20, I referred your sister Michelle to the document at page 84?---Yes.

And just so that it's clear to you if you look at page 84 in Exhibit 1 you'll see that I was there referring her to the Wish Consulting letter to you, do you see that?---Sorry, I didn't hear that.

If you look at page 84 in Exhibit 1 you'll see that I was referring her then to the Wish Consulting letter to you of 17 April 2008. Do you understand that?---Yeah.

Now, just go back to the transcript please and have a look at, find line 40 on the left-hand side of the page, do you have that?---Yeah.

10 And then immediately above that do you see my question to your sister Michelle, "And there's not one word in that letter that's true as at April 2008 is there?" And her answer was, "No." And then do you see the next question, "It's completely and utterly falsely" I think that should say, "represents your younger sister Jessica as an employee of your company in the position of Head of Research and Development doesn't it?" Answer, "Yes, it does." Now, having drawn your attention to your sister's evidence of course she was the director of Wish Consulting at the time?---Yeah.

20 Do you adhere to your evidence that you were employed by that company in May of 2008 and earning \$87,000 per annum?---Yeah, that's correct but I don't think Michelle gave me the contract it was given to me by Sandra.

But my suggestion to you is that the document at page 84 does not represent the true position?---Why not, I don't understand.

Well, it says that you were employed by her company on a salary of \$87,000 when you never were?---Why not? But I'm saying I was.

THE COMMISSIONER: When did this, if you can just go back to 583 - - - ?---Yep.

30 - - - at line 43 you say, "I do recall talking to Sandra", sorry, Michelle was saying, "I do recall talking to Sandra about these cosmetics that we may be going into business with." She was talking about April 2008. So according to Michelle by April 2008 you were only talking about going into the business of cosmetics?---No, that's not true because I was working on it for a long time during those holidays and even in - - -

What holidays?---Uni holidays.

40 Three months?---Yes. A good time. And I was spending a lot of time and effort trying to research sort of things like how to make almond oil clear your skin and orange, orange pulp and, yeah.

And for doing that sort of stuff you were being paid more than \$7,000 a month?---Yeah, well, it was really intensive work because I was working till 2 o'clock in the morning.

Where was Sandra getting the money from to pay you and Michelle?
Where were they getting the money from to pay you?---Well, I was thinking from their company.

Where does the company get the money from?---I'm not sure.

They're your sisters, you're very intimate with each other aren't you?
---Well, not really. Especially - - -

10 Are you telling me that you'd have no idea, you don't know where Michelle's company Wish Consulting was going to get the money from to pay you \$84,000 a year?---Yeah, that's correct 'cause I don't know anything about like money and companies and stuff like that and it's stuff that they set up so how am I meant to know what, you know, anything about the money or the finances or anything like that.

Did you actually agree \$84,000 a year with them, is that something you remember discussing?---Yeah, I remember - - -

20 Who did you discuss it with?---Sandra.

And what was the discussion?---I can't remember the exact discussion but it was something like oh, yeah, you have to do this work and then you'll get paid \$80,000 a year.

Ms Lazarus, there's a couple of other aspects of this document I want to take you to before I tender it. Can you turn to page 6 of 16 in the bottom right-hand corner, please. Perhaps we can unclutter the witness box by removing Exhibit 1. Do you have page 6 of 16?---(NO AUDIBLE REPLY)

30 Do you have that, madam?---Hang on just a second. Yes.

Thank you. And do you see there's a heading across the page, "Loan required," do you see that?---Yes.

And do you see underneath the reference to LVR and a figure of 90 per cent the words "Total amount of all new loan," and the number "\$494,600," do you see that?---Yes, I do.

40 And when you went to the bank and you gave the information that you've told us about and signed this application, you knew that you were going to be involved in a bank loan of about half a million dollars?---No, I didn't take notice of the number.

What, you didn't know how much money you were borrowing from the bank?---No, like I said I was not paying as much attention as I probably should have been and I didn't, I didn't even know the details of the, what I

had told her to write on the form like, things like university student, like what you told me I wrote on there, like I can't remember that.

I suppose you didn't know that you were borrowing 90 per cent of the purchase price?---No, I don't know, I don't know the details.

Tell me, you see a couple of lines down under the heading "Residential loan account summary," on the right-hand side or right-hand column on the page you see the words "monthly repayment?"---Yes.

10

\$3,600 a month?---Yes.

I suppose you tell the Commissioner you didn't know in May 2008 that that was going to be the monthly repayment obligation?---Yeah, that was Sandra's knowledge.

So did you have knowledge of that?---I didn't know how much you pay a month for - - -

20

In May 2008 you would have had no capacity to pay \$3,600 a month back to the bank, would you?---Why not? 'Cause I was, like I told you, like I don't understand, 'cause I was getting paid for those, the uni holiday work I did and I was getting a good few thousand for it and I said to her, I said to Sandra, I said, look, take out whatever you need to take out to pay whatever you need to pay.

THE COMMISSIONER: But you were a student as well?---I know but I wasn't a full-time student at that time.

30

MR ALEXIS: Now turn back to page 2 please, I'm sorry, we should start at page 1. And do you see under the heading "Applicant 1" we have some details concerning your sister Sandra?---Yeah.

And aside from the typographical error in relation to your street of home address, is the home address otherwise correctly recorded there?---Yes.

And is that her correct date of birth as you know it to be?---I think so.

40

And in May 2008 was your sister Sandra single?---I think so.

And, is there any doubt about that?---I'm not too sure if she had a boyfriend or something, I don't know.

Anyway that was her mobile phone at the time that we see on page 1 of 16, was it?---I think so.

And just turn over the page. Do you see in relation to employment we have described on this form "full-time employee," do you see that?---Yes.

And your sister told the bank officer during the discussion that you've told us about that she was a full-time employee in May 2008, is that so?---Sorry, can you say that again?---She told the person at the bank during the discussion - - -?---Yeah.

- - - before you signed the document that she was a full-time employee?
---Yeah.

10 And she told the person at the bank that she was a doctor?---Occupation doctor, yeah.

Yeah. But she, she told that to the person at the bank?---Okay.

Well, do you accept that?---No.

Well why not?---Because she's not a doctor.

20 But you heard her say to the person at the bank that she was a doctor didn't you?---No, I didn't hear that.

Sorry, you didn't hear that?---No.

THE COMMISSIONER: Is there any explanation that you have for it being in the form which you signed?---I'm not too sure.

What do you mean you're not too sure? Not too sure about what?---I'm not too sure why it's got doctor there.

30 And why you signed it?---No, well, I knew it was like for the house. I had to sign it for the house.

Now did you hear your sister Sandra tell the person at the bank during this discussion that her present employer was the St Vincent's Hospital?---I can't remember that.

And that she'd worked there for five months?---I can't remember that.

40 Do you remember telling the person at the bank that she had a second employer which was the Royal Hospital for Women?---I can't remember that either.

Do you remember her saying to the person at the bank that she'd been working at the Royal Hospital for Women for about a month?---No, I can't remember that at all.

Just have a look at the document at page 83 of Exhibit 1, please. I'm sorry I asked for that to go back, but can that be shown again, please. Ms Lazarus,

you do recall don't you the discussion involving the current and past employment situation of your sister?---Sorry, I don't understand.

You do recall the discussion at the bank involving the present and past employment situation of your sister don't you?---With the bank lady?

10 With the bank, yes?---No, I don't recall that. That's what I said, I didn't, like when you asked me if I knew whether Sandra had said to the woman at the bank that she was working at St Vincent's and Royal Hospital for Women, like I told you, I don't remember that.

But you've already told me that there were discussions at the bank with the person there about your employment situation. You've told me that haven't you?---Yeah, well I went off what you said, like I can't even remember that.

So you can't remember whether there was any discussion involving your sisters employment situation. Is that what you're saying?---I can't remember that at all.

20 Just have a look at the letter at page 83?---Yes.

And do you see that the letter in the first paragraph confirms employment of your sister starting on 7 April until, sorry, 7 April, 2008 until 7 April, 2009?---Yes.

And do you notice the date of the letter happens to be about a month before your sister was in the St George Bank at Mount Druitt signing this loan application?---Yes.

30 And this letter, that is the letter at page 83 was provided by her to the bank in support of this application wasn't it?---I'm not too sure.

Well may I suggest it's obvious madam, that because the form indicates that your sister had been employed with the Royal Women Hospital for a month, it's likely that in support of that information the letter at page, or a copy of the letter at page 83 was provided?---Most likely.

40 Now can I ask you to look at the income details and do you see that a gross income of \$94,200 was there referred to?---Yes.

Now in May of 2008, do you know where your sister Jessica, was earning that sort of money from?

THE COMMISSIONER: Your sister, Sandra.

THE WITNESS: I'm Jessica.

MR ALEXIS: I'm sorry, I do apologise to you. Do you know where your sister Sandra was earning that sort of income from?---No, I'm not sure.

Well where did she say she was earning that income from when you were at the bank with her?---I can't remember.

Do you see, just moving horizontally across the page, just pass over the rental income, do you see under the heading "other" it says \$132,000?
---Yes.

10

Do you know what that relates to?---I'm not sure.

Do you know whether your sister was earning anything like, pardon me, \$220,000 in May of 2008?---Sorry, are you looking at the 280?

I'm asking you whether you knew in May of 2008 whether aside from rental income your sister was earning in the order of \$220,000?---I'm not sure how much she was earning.

20

Do you know where she was earning it from?---I'm not sure. Oh, I knew she was earning it like, because she was doing some trials and stuff for the Medex - - -

THE COMMISSIONER: Was that her sole source of income?---Sorry?

Was that her sole source of income at that time?---I'm not too sure.

Are you sure of anything?---Some things I'm sure of.

30

MR ALEXIS: All right. Now, yes, I tender the application, Commissioner.

THE COMMISSIONER: The finance application signed by Sandra Lazarus and Jessica Lazarus is Exhibit 63.

#EXHIBIT 63 - FINANCE APPLICATION SIGNED BY SANDRA & JESSICA LAZARUS

40

MR ALEXIS: Thank you. Now, Ms Lazarus, is your position in relation to the matters that are of interest in this inquiry that you did in fact use the Medex device on at least a patient at the Royal Hospital for Women?---Yes.

In relation to the question that I've just put to you is your position that you examined more than one?---Yes.

How many did you examine as best your recollection tells you?---Well, I'm thinking around ten but it's kind of all washing together 'cause I did heaps

at the training and at the ASC and at the hospital so I can't remember exactly how many I did.

So you think it was about ten?---I'm thinking around ten.

But there's obvious doubt in your mind about whether that number is accurate?---Yes.

10 So do you accept from me that it could've been as little as two?---No.

Would you accept from me that it was as little as five?---No, I still reckon around ten.

Now, we've looked at the events of going to the bank and buying the property and I've taken you to the ethics application. When in about those events do you say you went to the hospital and did examinations on patients up to about ten?---What do you mean? Do you mean in relation to the ethics application again?

20 Yes. I'm just trying to understand when in the 2008 year you say you did the examinations on these patients?---I can't, I can't remember exactly what month or anything.

THE COMMISSIONER: You can't remember at all not that you can't remember exactly. You've given us no indication at all?---Well, - - -

30 Do you remember what year you examined them?---Well, it would have to have been 2008 and like I said I couldn't even remember when I did the, like what year the training was. And the only reason I remembered was because I looked at the certificate and in my mind I was thinking I trained in 2008.

You seem to have a very poor memory, is that wrong?---Sorry?

You seem to have a very poor memory?---Poor, yeah, you're right, I do have a very poor memory.

40 So don't have you a poor memory about these tests or why do you have such a clear memory about the tests if you have a clear memory?---Because I normally remember stuff that I'm really, really interested in, I've got like a really selective memory and people say this to me all the time, You're the dumbest smartest person I've met 'cause you only remember things that you want to.

MR ALEXIS: Now, Ms Lazarus, in and amongst what you have been able to tell us about as best your recollection allows you there is one thing that you're crystal clear about isn't there?---What's that?

And that is that when you went to the hospital you met Professor Hacker, you met his secretary Helen and you obtained a security access card?
---Yeah, I didn't remember her name at the time but with everything going on here like the name came up and I was like, okay, her name's Helen but I didn't remember her name like before that.

10 And the other thing you're crystal clear about is that you obtained your security access card with your photograph which I think you've probably still got there in the witness box. Thank you. And it was after that that you saw your first patient, is that so?---I think so, yes.

THE COMMISSIONER: Sorry. Where did you see the patient?---I think it was down the hall, I can't remember the exact spacial location or anything but it was down the hall from Professor Hacker's office. And then you entered this like waiting area and the chairs are like in an L shape and that's where the patients sit and that's where I just approached them and I had my patient consent form on me and stuff.

20 And where did you examine them?---Okay. So when you get into that waiting area there's like a door on, it's like on, you walk in like this and then the L shape is like that of the chairs and the door's on that side and you walk through that and there's like a hall. Right down the end on the left side I think there's a room and there was this taller woman, she was a taller brunette with short hair, can't remember her name or even what her face looks like, she, she was like in charge of allocating that room and she said something like this room's always spare or Sandra said something like this room's always spare, like it's an unused room and that - - -

30 THE COMMISSIONER: What was in the room?---Okay. So there's like a bed and there's a curtain you can pull around, it's like a blue curtain and then on the bed you've got, you know those sheets that you put on for hygienic purposes and then, you know, I don't know what they're called, they're like these things you put your legs in to keep them spread apart and, an up sort of and they were attached to the bed and then there was like a desk, I think it was brown where I put that, that Medex laptop on, yeah.

40 MR ALEXIS: Now, Ms Lazarus when you examined the patients that you've told us was your sister Sandra with you or not?---Well, on the first day she was 'cause I remember we got through a fair few 'cause she was like really quick but I think she was telling me that I was like slow so I think it was around three patients or something like that and then after that she was in the hospital but I'd just go up to Helen and say oh, look, I'm here to pick up Medex equipment or I'd call Sandra and I'd be like oh, look, it's later in the day, is the Medex equipment set up and she'd be like, yeah, just go there.

Now, on those occasions where your sister was not there - - -?---Yes.

- - - where did you get the Medex equipment from?---It's like a room behind the desk, Helen, she sits at that desk and I just said to her look, I'm here to pick up the Medex equipment and like it was on the corner, like I think there was a grey cupboard there and it was on the corner on the floor there.

And was there a chair of something, or something like that there?---A chair?

10 Mmm?---I can't remember the chair, I just remember it was in a corner and I remember there was, what are they called, they're called cabinets, the filing cabinets.

20 And what in terms of equipment was there for you to collect?---Um, I've don't know if you've seen a bag like this, it's like, you know an Xbox console bag, the carry bag? It's like a laptop bag but it's boxy, it's not, it's not like your regular laptop bag so it can fit the laptop in there but it can also fit like the saline solution that you had to use with the cotton balls and all that stuff and I remember the ISOWIPES which you're also supposed to use for the tests, they weren't in the bag, they were, I think they were in a linen cupboard or something like that and I think there were extra gloves in there or extra gloves in the bag.

Right. And so you got all this, did you, from the room behind where Helen sat, is that so?---That's correct.

And when you had the equipment in hand how did you go about then examining a patient, how did you connect yourself with a patient before the examination got under way?---Well, first of all - - -

30 MS FURNESS: Your Honour, can I just object to the use of the word examination.

MR ALEXIS: All right.

MS FURNESS: There's no evidence that these patients were examined by anyone.

MR ALEXIS: That's a fair, fair objection and I frankly wasn't intending anything by use of the word but it's a fair objection.

40 Madam, let me put the question again?---Okay.

When on your evidence to the Commission you saw patients, how was it having got the equipment you were able to connect yourself with a patient? ---Well, you don't connect first of all with the patient, you have to set it up if it hasn't already been set up.

Set up what?---The equipment and the laptop because the laptop goes hand in hand with the device. You can't just use the device on its own.

All right. Well, let's, let's assume you've set up a room and you've got your equipment organised?---That's correct.

I'm interested to understand how it is that you were able to then get to speak to a patient, how, how did that happen?---Okay. So you go the nurse's desk in the waiting area.

10 And the nurse's desk is where?---Okay. So the L-shape of the chairs is just like that and then the desk is there in front.

So you spoke to a receptionist there did you?---I think it may have been a nurse, not a receptionist.

THE COMMISSIONER: Are you talking about Helen or someone else?
---No, no, no, this is in the waiting area, the patient waiting - - -

Where the receptionists are?---I think they're nurses, not receptionists.

20 It's where the people come in first to, to see the, to see the doctor?---
They're waiting to see the doctor and then the nurses are at, like their station and they've got a patient list on them and then I said to the nurse, I said oh, look, I can't remember exact words but I said oh, look, I'm a research student of Neville Hacker's blah, blah, blah, blah, can I please have the patient list and this is the study we're doing, I think you've spoken to Sandra about this already and she's like yeah, yeah, I know and I think they would have remembered me from the first time that I went in with Sandra and then when I get the - - -

30 MR ALEXIS: So you had a conversation with this person and they provided you with what?---A patient list.

And what was on the list?---Okay, so you've got the patient name, you've got, I think their address and stuff. You don't have information about what's wrong with them and that was one of the things I had to look at, 'cause in one column it says whether they're a new patient or not. And I think Sandra told me like if they're a new patient, they most likely got an abnormal pap smear and they're the patients you're meant to be recruiting.

40 All right?---And then so I went up to Helen's or I don't know if you want to call it Helen's office, it's really Dr Hacker's office area and there's a photocopier like just as you walk in the door there's a photocopier but it's not like one of your Xerox, big, big photocopiers. It's just like a home office sort of photocopier. So it didn't require a pin or anything like that. Then I just photocopied it there and then I just went - - -

THE COMMISSIONER: You photocopied the what?---The patient list, 'cause I couldn't hold on to it because the nurses obviously needed it for whatever reasons they use it.

MR ALEXIS: So we should understand that the nurse or the receptionist or the person you referred to would provide you with her patient list?---Ah hmm.

10 You would go and make a photocopy of it - - -?---Ah hmm.

- - - on the photocopying machine that didn't need the pin number. Is that right?---Ah hmm. Ah hmm.

And then you'd take the patient list back to the nurse or the person and you'd retain your copy. Is that so?---That's correct.

20 All right. And what would you then do in relation to a patient?---Well I'd just walk up to them and say, hi, I'm a research student. Something like this, I can't remember the exact words. And it's so hard to - - -

THE COMMISSIONER: Every new patient?---Sorry?

30 Every new patient?---Well, I wasn't aware which ones were new and which ones weren't so I'd have to ask them their name and say I'm looking for new patients 'cause new patients would be involved in this study and then from that, like if they said, yeah, I'm a new patient, I'd be like, okay, can I ask your name. And then I'd give them the, the patient consent form and I'd say, oh, would you like to have a read, it's about this, this Medex device and it's non, it's non-invasive. I remember specifically pointing out that it's radiation free and it's non-invasive. And that was a big point for me because people probably thought, oh, why, why do you want to test on me, what are you using. So I had to point out that it's like a twenty minute test and it's radiation free and non-invasive. And I was really, like I wasn't like intimidating or anything, I made sure that I said it to them in a comfortable, clear way. But I can't remember the exact pitch.

40 MR ALEXIS: So should we understand from that evidence, madam, that every patient on the patient list was one that you went and approached and spoke to?---No, no. I just told you, there was a column on the patient list that has a list of patients have new patient next to their names, all their information and some of them don't. So it's new patients that you're looking for. And when you approach the patient you don't just assume that they're a new patient, you have to ask them, hi, I'm doing a study, are you a new patient, 'cause only new patients may be involved in this study.

And so you asked them whether they were a new patient even though you knew that from the form?---No. How do I know that that's their name. Do you know what I'm saying? Like you have to go up to a patient and say, hi,

are you a new patient. If they're a new patient then you ask them their name and then you look, you scroll down the list and you find their name next to new patient. You confirm that they're a new patient. Do you know what I mean?

10 And then, and then assuming the patient was accepting of your request, what then happened?---And then I said, okay, it's only a twenty minute test. It's not non-invasive, it's radiation free, it's just going to be conducted in a room down the hall. And they were like, okay, cool. And I made sure that the time was right, 'cause I couldn't cross over into their, into their
appointment time of course, 'cause they needed to see the doctor. So I just
said, oh, okay, look follow me into this room and the test device is in this
room. So they just followed me there and then I said okay, I need you to lie
down and I performed the test on them.

20 All right. Now in the process of all of that, was any paperwork prepared or referred to?---Yeah, you're right. 'Cause with the consent form you've got, I think there were two pages at the back. I think I signed one of them and the patient signed the other or we both signed both pages. I can't remember
20 exactly how it went. And I think we had to put a date as well. And then I ripped, I remember ripping, ripping the last two pages off and keeping them with me and saying, look, you're welcome to this information which was just the first few pages of the consent form. And that told all about like the Medex device and how great it is and all that stuff.

Now that form that you've just spoken about what happened to that?---What do you mean?

30 The form that you've just spoken about what happened to it after you'd seen the patient?

THE COMMISSIONER: What did you do with it?---I gave the top part to the patient and then the last two pages with the signatures and stuff on it were kept by me 'cause I needed to file them in the white binders that were at, at the, the place, what is it called, Hacker's office.

MR ALEXIS: And where did you put it at that place?---In the white binders that were in the filing room behind Helen's desk.

40 All right. And where did you put them in the white folders?---What do you mean where in the white folders?

Yes, what, what, how did you put them in the white folder?---I don't understand. You just, you punch holes in it and then you put it in. I don't understand.

I see. So there were two holes punched in the side of the form?---Yeah.

And it was placed into the folder. Is that so?---Yeah. It's like a Bantex folder.

I see?---It was either punched holes or in sleeves. I can't remember, 'cause I remember there were holes in it and also sleeves. I can't remember exactly.

All right. Now we're at a point I think where you've seen the patient?
---Yes, yes.

10

You've said goodbye to them?---No, you've got to perform the test.

Well I'm assuming in your favour that you've done that?---Okay.

Once you've said goodbye to the patient is there anything that you have which relates to the testing that you've done?---Yeah, those two, those two, two sheets at the back of the form.

What form?---The consent form.

20

Right. And - - -?---So like I'm not, I'm not, like go back and forth, like back to Hacker's office and back to the waiting room. Like I'd keep them on me in the room.

But after seeing the patient and saying goodbye - - -?---Yes.

- - - did you obtain a graph from the, from the machine?---No, no. That's a graph that's stored on the computer.

30

Did you ever see a graph being produced by the computer?---No. But I saw them in binder. There were heaps of them in the binders. I couldn't, I don't, I don't recall like seeing it physically being printed out. But they were slotted into the binder.

All right. And the graph that was printed out do you recall ever providing that to Professor Hacker?---No. But I knew he'd seen them 'cause he was looking through the folders when I was there.

40

But did you on any occasion give it to him, that is Professor Hacker personally?---The graph?

The graphs?---No. I told you, I never printed them out.

I see. Are you sure you never printed them out after seeing the patients?
---No.

Not once?---I didn't, no.

All right. Now can I just show you a document before I finish. And can I provide you Commissioner with a copy. And do you still have your security pass with you?---Yes.

And would you look on the second page of the document I've provided to you and would you look at the original security pass that you have and would you confirm for me that the photograph on the form that I've just given you and the photo on your security card is identical?---Yes.

10 Thank you. And do you see underneath your photograph on the second page, pardon me, just over on the right hand side - - -?---Yes.

- - - the words last printed and then there's a date 14 July, 2008. Do you see that?---Yes, yes.

Just come back to the front page and just picking up if you would your original card, does that have an employee number on it?---ID number do you mean?

20 Yes, the ID number. What's the ID number on your card?---It's 3-1-8-6-8-1-5 and I know that because that's my uni student number.

All right. In any event if you look at the employee number printed on the form - - -?---Yep.

And you compare it to your original pass we see that they match precisely. Is that so?---That's correct.

30 Thank you. And do you see your name printed on this form?---Yes.

And do you see further down a box that has start date written on it?---Yes.

And do you see the date 14 July, 2008?---Yes.

Now, in showing you this document what I want to suggest is that you obtained your security pass on that date, namely, 14 July, 2008?---Yes, so now I guess that means that it was after that ethics application you were showing me earlier.

40 Well, you've perhaps saved me the suggestion. What I want to suggest to you is that you didn't see any patients at the Royal Hospital for Women - - - ?---Why is that?

- - - prior to 14 July, 2008 because that's the date upon which you had your security pass issued?---Yes.

You agree with that?---Yes.

Thank you. Commissioner, that's what I wish to ask Ms Lazarus at this stage and I'd ask that she be stood down for potential recalling in due course. And I should tender this document before it gets lost.

THE COMMISSIONER: What do you call it?

MR ALEXIS: It's a printout from the security system and perhaps Ms Furness can help me if there's a better description to give to the document because it's come from her pile.

10

THE COMMISSIONER: Yes. This printout from the security system relating to Jessica Lazarus that's Exhibit 64.

**#EXHIBIT 64 - PRINT OUT FROM THE SECURITY SYSTEM
RELATING TO MS JESSICA LAZARUS**

MR ALEXIS: Thank you.

20

THE COMMISSIONER: Yes. Ms Lazarus, you may stand down. You will probably be recalled again at some stage. Thank you?---Thank you.

THE WITNESS WITHDREW

[3.21pm]

MR ALEXIS: I propose calling Dr Sywak but I understand before I do that there's an application to be made.

30

MR HOGAN: Yes, sir. Because I've received contradictory instructions and, indeed, there's a conflict of interest between the two clients and because of the events of today in particular I find that I'm embarrassed that I'm unable to properly assist either of my clients and I've informed them of that at lunchtime. I also sought senior counsel's advice. So I would seek to withdraw and also my solicitor has terminated his agreement. I've advised both Jessica and Michelle Lazarus that they should instruct another counsel and a solicitor and I'll provide them with all of the materials that I have to assist them and I've informed them of the witnesses that are to be called next Monday and Tuesday it will be sitting so I do seek, regrettably, leave to withdraw in the matter, sir.

40

THE COMMISSIONER: Yes. You have that leave and so does your solicitor and Mr Hogan, thank you for your assistance to the Commission. You have been of assistance to the Commission.

MR HOGAN: Thank you, sir.

THE COMMISSIONER: And I understand why you're taking the action that you, you have leave to withdraw and so has your solicitor.

MR HOGAN: Thank you, sir.

MR ALEXIS: Yes, thank you, Commissioner. I wish to - - -

THE COMMISSIONER: Ms Furness, do you want a section 38 order?

10 MS FURNESS: I do, thank you, and I appear for Dr Sywak.

THE COMMISSIONER: Yes.

MR ALEXIS: Yes, Commissioner, before you is Dr Mark Sywak.

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

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

THE COMMISSIONER: Dr Sywak, do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

40 DR SYWAK: Under oath.

<MARK SYWAK, sworn

[3.24pm]

MR ALEXIS: Thank you, Commissioner. Sir, is your full name Mark Sywak spelt S-Y-W-A-K?---Correct.

And are you currently the Head of the Department of Endocrine and Oncology Surgery at the Royal North Shore Hospital?---Correct.

10 And in this matter it's the case is it that you've given two statements of evidence? Let me identify them by date. Firstly, the statement of 1 July, 2010 and secondly, the statement dated 23 December, 2010, is that so?
---Yes.

I'll just show you copies of each of those statements. A copy for you, Commissioner. Firstly sir, are they the two statements to which I just referred?---Yes.

20 Now, can I just deal with a related matter before going into some detail. Should we understand, Doctor, that after being provided with your second statement in draft you had occasion to reflect on the content of your first statement and sent an email as a result of that moment of reflection to Ms Hart one of the investigators at the Commission?---Correct.

30 Thank you. Can I show you the email please. Copy for you, Commissioner. And, Doctor, can we just confirm firstly that the email at the bottom of the page from Ms Hart to you attached the second of the two statements in draft form and your responding email is at the top of the page dated 27 January, 2011?---Yes.

All right. Now, subject to exploring what you've said in this email in terms of the voucher documents are your statements otherwise true and correct?
---Yes.

Thank you. So, Commissioner, can I tender each of those two statements and I should tender the email as well.

THE COMMISSIONER: Is that necessary the email?

40 MR ALEXIS: Well, I thought it was appropriate having regard to what may be an issue as a result of it and it's clearly enough a document that - - -

THE COMMISSIONER: The statement of Dr Sywak of 1 July, 2010 is Exhibit 65.

#EXHIBIT 65 - STATEMENT OF DR SYWAK DATED 1 JULY 2010

THE COMMISSIONER: The statement of 23 December, 2010 is Exhibit 66.

#EXHIBIT 66 - STATEMENT OF DR SYWAK DATED 23 DECEMBER 2010

10 THE COMMISSIONER: And the series of emails commencing 28 January, 2011 from Ivana Hart to Jan Daly is Exhibit 67.

#EXHIBIT 67 - SERIES OF EMAILS COMMENCING 28 JULY 2011 FROM EVARNA HART TO JAN DALY

MR ALEXIS: Thank you. Now, Doctor, should we understand your qualifications set out in paragraph 5 of your first statement, is that so?
20 ---Correct, yep, correct.

And the details concerning your appointment as a conjoined lecturer at the University of Sydney as set out in paragraph 6?---Correct.

Can I come directly to the occasion when you had some contact with a female that you came to understand as Sandra Lazarus and do you deal with that from paragraph 13?---Yes.

30 And is it the case that you were approached some time ago in your rooms in Christie Street, St Leonards by a young female with a hospital request form asking you to sign it?---Yes.

And are you able to recall as best you can when that occurred?---My recollection was that it happened on an afternoon where I was seeing a large number of patients. In retrospect it would fit with the date that was suggested by the investigators so that that would fit with the January date.

40 And just if we can try and tie the timing, if we can have you look at Exhibit 1 please opened to page 230. And I do so only to identify the date adjacent to your name and what appears to be your signature on that document, the date 21 January, 2009, do you see that?---Yes.

So is what you're tell us that the incident that you recall to mind in paragraph 14 fits with the timing in the month of January, 2009?---That's correct.

All right. Now, can you tell us what was said on this occasion between you and this young female?---The, it was a short discussion in which she stated

that she was undertaking research with one of the medical oncologists at Royal North Shore Hospital, Dr Nick Pavlakis, and that Nick was away and unable to sign off on a document which she needed signed off on to continue her research. There was very little detail given about the exact type of research and I, I asked about that and my recollection is that she was evasive regarding detail.

Do you recall if she introduced herself and if so how?---I don't recall an introduction.

10

So you don't recall the name that she gave, if she gave a name?---I don't, I don't recall the name, no.

All right. Now, in paragraph 15 you tell us that you were confused with the matter and you go on to say that you refused to sign the form. Do you see that?---That's correct.

And you go on to tell us about a lack of delegation or control over Dr Pavlakis' department?---Correct.

20

And was that the case in January 2009?---That's correct.

We should understand you had no financial delegation to sign vouchers such as this in relation to this department?---Correct.

And you knew that then?---Yes.

30

Now, just coming back to the email if I may, Exhibit 67, you there record following some time to consider the Lazarus case as you describe it a belief that it is possible that I signed a non-order voucher, do you see that?---Yes.

And you refer in terms to 21 January?---Correct.

40

Now, I know this has been difficult for you, try to recollect it as clearly as you can to assist the Commission but what is your best recollection today as to whether or not you refused the request or whether you acceded to the request and signed the form?---My recollection after having refused to sign is that we attempted to contact Dr Pavlakis and he was in fact away or, or non-contactable so the story was plausible. I don't recall exactly putting pen to paper but it is possible that I signed one document.

Now, as appears at page 230 and can I ask you to look at page 236, just following the numbering in the top right-hand corner, so 236, 238 and 240, I'm sorry, 248?---Yes.

We see that on 21 January, 2009 there appears at least from those documents to be four separate documents relating to four separate invoices signed on that occasion on 21 January?---Yes.

Now, given the evidence that you've just given about the possibility of a single voucher being signed, what's your best recollection in relation to signing four vouchers on this occasion following a request for only one or none at all?---I, I don't recall seeing four vouchers, I recall seeing one and I accept that I possibly signed one.

10 Now, in paragraph 16 of your statement, that's your first statement, you tell us there that you could only sign off on requests relating to your own department, endocrine and breast surgery, do you see that?---Yes, yes.

And we should understand that you've said that in your statement to I suppose explain why you refused the request as you'd said earlier in your statement?---Yes.

20 So if you now accept the possibility of signing one I need to ask you this question, why in circumstances where you knew you had no financial delegation do you accept the possibility of signing one?---We, the lady, she was very persistent and, and I guess following my, my attempted phone call through to make the, the story was plausible and - - -

THE COMMISSIONER: But he wasn't there?---He wasn't there, no.

So what, what did his absence, how did his absence make her statement plausible?---The, the fact that she had said that he had asked that I sign it on his behalf and the fact that I couldn't get in touch with him on, at that time meant that the story was plausible.

30 Did she explain why he couldn't sign it?---That he was away.

Well, Dr Sywak, what I don't understand is in the story, I mean the whole overall story, is if, if, if this person said to you she couldn't get Dr Pavlakis to sign it because he was away - - -?---Mmm.

- - - would you sign it and she also told you that Dr Pavlakis suggested that she speak to you about the, about signing it, that, that seems to indicate that she was saying that she'd spoken to Dr Pavlakis even though he was away?
---Correct.

40 So I don't understand that?---Well, I, I assumed that he wasn't physically able to sign it and she had apparently spoken to him and, and he asked that she contact me to - - -

I mean, one way she could have spoken to him in these circumstances is that she could have spoken to him on the telephone and not face to face?
---Correct.

And was there anything said that led you to believe that this had occurred or was this simply an inference that you drew?---No, I, I believe that she, that she said that she'd discussed it with Nick, he was away and that he had referred her on to me to sign the document.

Right. Now, I just have one other question, you examined the signatures, I mean, I can see from your statement that you examined the signatures of the, on the vouchers - - -?---Yes.

10 - - - that, that purport to have been signed by you?---Yes.

And I think you've said they bear some similarity to your signature and is there any one of the four that is more likely to be your signature than any of the others?---Well, when I look at the signature with the invoice date on 7/10/2008, so that's page, page 248, I think that, that's the document that looks most like my signature.

20 And when you were thinking about it, about the matter after you'd signed the statement you started to have reservations - - -?---Yes.

- - - about whether you had signed one or not. Did the apparent likelihood of the signature being genuine influence you in your decision that you had signed one or had that nothing to do with it?---My, my influence, what influenced me to send the email was really several weeks of just trying to mull over the, the incident and - - -

But did the likeness of the signature, of a signature play any part in that? ---No, no, it wasn't.

30 It was just trying to reconstruct what had happened?---Yes. It wasn't the likeness of the signature that influenced me.

All right. Thank you.

40 MR ALEXIS: Now, just to assist in the answer to one of the Commissioner's questions about which of the invoices can I provide you with what appear to be these vouchers with an original signature of yours on it and, Dr Sywak, when you look at those vouchers that I've given you and compare them with the copy vouchers at 230, 236, 238 and 248, you'll see that none of them have a signature next to the words "Sandra Lazarus," do you see that?---Correct.

Yeah. But just in relation to your signature as it appears on each of those original documents, having the benefit of the originals, does that assist you at all in identifying whether or not you've signed them and if so, which one?---I accept that they all look very similar and I have had an opportunity to look at them more closely now and, and as I said, the document with the

(not transcribable) date on 7/10/2008 is the one that looks most like my signature.

And that's the one that you accept is a possibility you may have signed?
---Correct.

All right. Thank you. Could those original invoice vouchers be tendered, please?

- 10 THE COMMISSIONER: The bundle of four non-order vouchers bearing what purports to be Dr Sywak's signature will be Exhibits 31, sorry, 68 A to D respectively, commencing with the first invoice number which is 1-0-8 – 0-7-1-0-0-8.

**#EXHIBITS 68 (A-D) - BUNDLE OF 4 NON-ORDER VOUCHERS
COMMENCING FIRST INVOICE 108-071008**

- 20 MR ALEXIS: Thank you. Now, Dr Sywak, in January 2009 were your consulting rooms in Christie Street, St Leonards?---Yes.

And were they in a building known as the AMA Building?---Correct.

Now, do you recall an occasion where your receptionist was approached by this young woman, Sandra Lazarus, with a computer stick and asked if a computer could be used? Are you aware of that?---No, I was not aware of that.

- 30 Did you have a receptionist in January 2009?---Yes.

And who was that?---Andrea Backer.

Is she still- - ?---Currently called Dibb.

Sorry, currently called?---Ah, she's since then married and now called Andrea Dibb, D-I-B-B.

- 40 Thank you. Now, so you're not aware of any occasion where access was given to Ms Lazarus for the purpose of inserting a computer stick into a computer so that some changes could be made to a voucher form before it was then printed out and presented to you?---No.

THE COMMISSIONER: Would that be within any person's authority to do that?---To have access to our computer in the office?

Yes, and to insert a stick and print something out, change the voucher?

---We, we do have a large number of research students and fellows who come through our unit and from time to time they come into our office to, to access files and data for follow-up of patients, so it's not uncommon for, for students to go into a spare room in our office for that purpose.

But I'm not sure if that answers my question. I asked you whether anyone was authorised to take a memory stick, insert it in the computer for the purpose that Mr Alexis described?---No.

10 MR ALEXIS: It's been suggested in evidence that Ms Lazarus came to see you in your Christie Street office, and I'm looking at transcript page 483 from line 45 and following, and doctor, that's just a reference for the Commissioner, that you had a very lengthy conversation with her in terms of what she was doing about the subject of the invoice or invoices, that you responded by saying, "Okay", and there was just talk about general things. And that you then signed the vouchers, that is to say all four vouchers, in her presence. What do you say to that suggestion?---That's not my recollection of the, of the incident.

20 It's also suggested that in the course of that conversation she made you aware of who her supervisor, who her supervisor was and what department she belonged to?---She made mention of doing research with Nick Pavlakis but there were no other names mentioned.

Now, did you understand Dr Pavlakis in January 2009 to have anything to do with cervical cancer?---I understand he's a medical oncologist and has a broad interest in medical oncology, but I also know that his sub-specialty interest is in gastro-intestinal oncology, so that's unusual, yes.

30 So if you saw an invoice that had written on it in terms, "Clinical research, cervical cancer screening", would that have not prompted you to wonder what Dr Pavlakis was doing as a supervisor?---Yes, it should have.

Do you have any recollection of seeing any invoice in the context of vouchers that were provided to you or a voucher that was provided to you for signature?---No.

40 All right. So if we just come back to your first statement, and I wish to ask you to look at paragraph 20. Should we now understand that paragraph 20 is understood in light of what you've given evidence of today which is accepting of the possibility of signing one form?---Correct.

THE COMMISSIONER: And as I understand your evidence, you accept the possibility but despite all your reservations about the content of the form, you might have been persuaded to sign one?---Yes, that's correct.

MR ALEXIS: Now, can I just show you the next series of vouchers at page 291 of Exhibit 1, starting at 291 and also page 293, 295 and 297. And, sir,

can I provide you with what appear to be these vouchers at the pages I've identified, but with what appear to be original signatures. And these include signatures apparently of Ms Lazarus. Now, what do you say about the signature on each of those voucher forms as representing your own?---Three of those signatures look a little like my initials and the fourth bears no resemblance.

10 And when you say the fourth bears no resemblance, can you just identify perhaps by the invoice number which one you're referring to?---1-1-8-1-2-0-1-0-9.

So that's the one at page 291 of Exhibit 1, is it?---(NO AUDIBLE REPLY)

Page 291 of the book?---Correct.

Thank you. Now, do you notice something about the way in which your position is described on each of the voucher forms, including the vouchers apparently signed in July?---The, the, the title is head of department.

20 And if a voucher like this had been presented to you either in January or July 2009 with that description of your position, namely head of department, would that have accurately represented your position there?---Not, it would be more accurate to write head of department of endocrine and oncology surgery.

And if you were presented with a form like that and you noticed that it was generally correct but not absolutely correct, would you have done something about that?---Yes, likely.

30 And what would that be?---I, generally these forms are handed to us through out departmental secretary and I would normally have referred it back to the, to our secretary to rectify it.

THE COMMISSIONER: Who normally generates these non-order vouchers in your area?---In our area all non-order vouchers come through our secretary in the department, Geraldine Ketteridge.

40 And are they handwritten or are they typed?---Typically handwritten at that time. But I think the system has moved on to a - - -

I'm talking about at that time?---At that time handwritten.

MR ALEXIS: Now it's been suggested Dr Sywak that on 28 July, Ms Lazarus came to you again in your consulting rooms in Christie Street and at page 485 of the transcript from the top of the page it's been suggested that, that you already knew her from your first meeting. You didn't have a lengthy conversation. She asked you, sorry you asked her what it was that she was after. She said these are the payments again and that you responded

by saying, oh, okay, no problem. You didn't give the documents a second look and you then proceeded to just flick through, grab your pen and sign them. What do you say to that suggestion?---I don't recall a second visit. There was only one, one visit.

10 But what do you say about the suggestion about cursory examination, flicking through the documents, grabbing a pen and then signing them without giving them, as the suggestion puts it, a second look?---Well that would be extremely unlikely because the (not transcribable) that were on these documents by an order of (not transcribable) anything that we ever have on a non-order voucher, so that would be very unlikely.

All right. Thank you. Commissioner, I tender the original vouchers for 28 July, 2009 which are before the witness.

THE COMMISSIONER: The bundle of four non-order vouchers dated 28 July, 2009, apparently signed by Dr Sywak are Exhibit 69A to D respectively.

20

**#EXHIBIT 69 (A -D) - BUNDLE OF 4 NON-ORDER VOUCHERS
DATED 28 JULY 2009**

30 THE COMMISSIONER: Dr Sywak, I just want to just understand something else about this incident. How do you ordinarily receive non-order vouchers for signature?---The, any activity around a non-order voucher happens in the public hospital for us generally. And it happens in the setting of the, of our department including oncology surgery. Typically these non-order vouchers are for relatively small amounts of money for administrative files, post or computer software and they're generally prepared by our secretary and I'm in a clinical department where once a month, sorry, once week and that time we generally run through paperwork, which might include signing off on some of these vouchers.

And has the supplier ever walked into your rooms before to ask you personally to sign a non-order voucher?---Never.

40 So I take it that it happens once it would be a most unusual event?---Yes.

And you're saying it only happened once?---Yes.

You're sure about that?---Yes.

MR ALEXIS: Dr Sywak, could you come through to paragraph 40. There's just one aspect of that paragraph I wish to ask you about. That's paragraph 40 of your first statement. And can you tell us when it was that you had the

conversation with Dr Burton that you're referring to there?---It would have been after my, my visit with the investigators from ICAC.

And that's what you tell us about in paragraph 35 I think is it, which leads into paragraph 36, I'm sorry. You see in 36 you say that you first became aware of this matter when contacted by senior investigator Kane from the Commission?---Correct.

10 And a few weeks ago based on the date of your statement, puts it, pardon me, some time in early June or mid June, 2010. Is that so?---Yes.

So after that time you spoke with Dr Burton. Is that right?---Correct.

And can you tell us what was discussed during the conversation in relation to Ms Sandra Lazarus?---It was an informal conversation that we have operating theatres side by side and he mentioned that there was an investigation into a researcher who had I think at one point contacted him, but the project didn't go anywhere with him.

20 Is that what he said to you?---Yes.

The project hadn't gone anywhere?---That's right. Yep.

All right. Thank you. Yes, thanks, Dr Sywak.

THE COMMISSIONER: Ms Soars.

30 MS SOARS: Commissioner, notwithstanding that I've had Mark Sywak's statements for some time, I've only just received this email of 28 January, 2001 at the bar table.

THE COMMISSIONER: You don't need instructions on that.

MS SOARS: I do in terms of the strategy I had in mind for the cross examination. And I'd like to get access to the original non-order vouchers and take a five minute adjournment, Commissioner.

THE COMMISSIONER: We'll adjourn for five minutes.

40

SHORT ADJOURNMENT

[3.56pm]

MS SOARS: Thank you, Commissioner.

Dr Sywak, my name is Julie Soars and I'm a barrister for Sandra Lazarus. Dr Sywak, you were shown an email which is now Exhibit 67 that you had sent to the investigator?---Yes.

Did you get a response to that email?---Yes.

What was the response?---The response was to, the email was referred to Jan Daly and the response was a request for me to phone her which I did and I discussed the, the issue with her and that's, that's where the discussion finished.

10 And you asked to adjust your statement. Was there anything said about whether you could adjust your statement at that point?---No, there wasn't.

Dr Sywak, can I take you to paragraph 15 of your first statement please. Have you got that?---Yes.

I put it to you that there's a big difference between what you've got in there and that you refused to sign and what you've, the evidence you've now given which is it's possible that you signed one non-order voucher, that's correct, isn't it?---I accept that, yes.

20 And I put it to you that that reflects the fact that you don't have a very good recollection of what occurred on 29 January, 2009, that's correct, isn't it?

MS FURNESS: Well, I object to the date, I don't think there's been any evidence about 29 January.

MS SOARS: Commissioner, he's given evidence it was one of the non-order vouchers dated 29 January which is the one, 21st, I apologise.

MR ALEXIS: The 21st, 21. A small point but a good one.

30 THE COMMISSIONER: Want another adjournment, Ms Soars?

MS SOARS: Thank you, Commissioner, all my friends are helping me here.

40 I put it to you, Dr Sywak, Sywak sorry, that, that you don't have a very good recollection of what occurred on 21 January, 2009, do you?---It, it was a long time ago but I do have a clear recollection of some points and that's in particular the fact that there was a discussion centred around research with Nick Pavlakis.

Well, in relation to that, can I ask you where in your statement that you actually refer to some of the things you have given evidence of today, including that - - -

THE COMMISSIONER: Identify them please.

MS SOARS: Yes, I will, thank you, including that Nick had asked that you sign the document on his behalf, Sandra said that to you. Is that in your

statement anywhere do you know?---That's not in my statement but that's a recollection.

But you were aware, weren't you, when you prepared your statement you had to be as complete and accurate as you could be?---Yes.

And is it your evidence that you only just remembered that recently?---I remembered it once I was prompted by a question, yes.

10 THE COMMISSIONER: A question from whom?---(NO AUDIBLE REPLY)

A question from whom?---From Mr Alexis.

MS SOARS: But you were questioned about these matters when the investigator initially asked you, asked you to prepare a statement, that's correct, isn't it?---Correct.

20 I'm going to show you now Exhibit 68A to D and could you just confirm which, which of the exhibits by exhibit number is the one that you say it's possible that you signed?---The one that looks most like my signature is Exhibit 68A.

And can I refer you to the invoice which is 0140908 and if you could identify the exhibit number.

THE COMMISSIONER: I don't have the exhibit, it would be helpful if you could please refer me to the page number in Exhibit 1.

30 MS SOARS: Counsel assisting has said page 231.

THE COMMISSIONER: I'm really trying to finish this as soon as possible. Please proceed.

MS SOARS: It's at page 230, Commissioner, the non-order voucher that I'm referring to. It's at page 230.

THE COMMISSIONER: Yes.

40 MS SOARS: Dr Sywak, can you compare the document at page 230 to the document at page 248 in the bundle which is the one in relation to invoice 071008?---Sorry, am I looking at the original documents?

THE COMMISSIONER: Look at the original.

MS SOARS: The originals?---Looking at the originals. And I'm going to Exhibit 68A?

And 68D?---And 68D.

THE COMMISSIONER: You better tell him, better find out where in 68.

MS SOARS: I'm just asking you to look at your signature on those documents please, Dr Sywak?---Yes.

THE COMMISSIONER: Which one?

10 MS SOARS: On both.

THE COMMISSIONER: Which document?

MS SOARS: On both documents. And I'm putting to you that there's no relevant differences between the signatures on those two pages is there?---I think they look a little similar but I, I, I can see quite big differences between them.

20 I'm putting to you that it's entirely possible that you signed both of those original non-order vouchers?---I, I don't believe I signed both of those.

THE COMMISSIONER: What are the differences please?---If, if we look at the second part of the signature there's, there's a Y and W and an A fit in between the S and the K and on, on Exhibit 68D there's just a straight scrawl.

MS SOARS: Can I show you the Exhibit 69A to D which is the second bundle of non-order vouchers. 291, 293, 295, 297, Commissioner.

30 THE COMMISSIONER: Thank you.

MS SOARS: And just in order to speed this up I'm going to deal with them all at the same time, Commissioner, and I'll ask the witness to identify if there's any that should be dealt with differently. But perhaps we just leave to one side the non-order voucher at 248 of the bundle which relates to invoice 071008 which you've accepted isn't possibly your signature, Dr Sywak. If you just put that one to one side. And in relation to the other non-order vouchers I've given you, number two exhibit 68 and 69?---At present I've only got four, four non-order vouchers Exhibit 69.

40

Did I give you Exhibit 69? He needs 68 as well. So if you could put to one side the non-order voucher relating to invoice 71008 which is at page 248 of the bundle. And in relation to the other non-order vouchers that you have - - -

THE COMMISSIONER: You're only being asked (not transcribable) is the one with the invoice number 108-071008?---I put that one aside.

MS SOARS: Thank you. And I'm suggesting to you that it's your signature on each of the non-order vouchers in front of you from Exhibit 68 and 69 apart from the one that's been excluded, that's correct isn't it?---No, I don't believe that is.

Can you on oath deny that that's your signature on those non-order vouchers?---I, I can't be absolutely sure but it doesn't look like my signature and I certainly don't recall signing them.

10 And taking into account the reservations you've made do you deny on oath that that's your signature on those non-order vouchers apart from the one that's been excluded?---I think it's very unlikely, I deny it, I deny it.

And just looking at the non-order vouchers there and if you can have the excluded one back please, in relation to the dates next to the signatures on the non-order vouchers I'm putting to you that those were dates were completed by you, that's correct isn't it?

20 THE COMMISSIONER: Sorry, which ones are you talking about? Exhibit 69?

MS SOARS: I'm dealing with them as a whole at the moment. So that's 230, 236, 238, 248, 291, 293, 295 and 297.

THE COMMISSIONER: Yes, but I think the doctor's not looking at those numbers, he's looking at the originals so you need to just tell him what they are.

30 MS SOARS: In relation to the non-order vouchers dated 21 January, 2009 invoice number 140908, do you have that?

THE COMMISSIONER: Ms Soars, I think you should just take your time. I think if you just go through it slowly you'll probably get there more quickly.

MS SOARS: Do you have that invoice?---Exhibit 68C?

40 I don't, I'm sorry, I didn't make a note next to the page numbers of the exhibit so I can't, I'm doing it by invoice number so it's 140908 dated 21 January, 2009. Do you have that document?---Yes.

Yes, thank you. I put it to you, you completed the date next to your signature on that page, that's correct, isn't it?---The numbers look similar to, to how I would write numbers but I don't believe I filled in that non-order voucher.

And in relation to invoice number 1-9-0-9-0-8 dated 21 January, 2009, do you have that?---Invoice number 1-9-0-9-0-8 dated on 19/9/2008 for the invoice date?

Yes, which has got a date next to the signatures down the bottom of 21 January, 2009. I'm putting to you that that's your, your handwriting in relation to the date on that non-order voucher?---I accept that those numbers look similar to how I, I, I would write the date but I don't recall signing that and I don't believe that that signature next to the numbers is my signature.

10

And in relation to the non-order voucher which is at page 238 of Exhibit 1 and relates to invoice 2-6-0-9-0-8 and was dated 21 January, 2009, do you have that?---I'm sorry, can you repeat the invoice number?

2-6-0-9-0-8?---Correct, yes.

I'm putting to you that you completed the date on that non-order voucher, that's correct, isn't it?---I don't believe so.

20 Does it look similar to your handwriting?---The numbers look similar to the way that I would write that but I don't, I don't believe I signed that document.

THE COMMISSIONER: Or filled it in?---Or filled in the date.

MS SOARS: And in relation to the invoice which is at page 248 of Exhibit 1 and is 0-7-1-0-0-8 which is also dated 21 January, 2009, do you have that?---Can you repeat the invoice number?

30 Yes, 0-7-1-0-0-8?---Yes, I have that document.

And according to my note of the evidence that's the one that you said it's possible you signed, that's correct?---Correct.

So there's no question that's your signature, sorry, that's your handwriting on the date next to the signature is there?---Well, there is a question because I, I think it's possible that I signed it but yes, that looks like the way I would write the date, correct.

40 And I'm taking you now to the document at page 291 of Exhibit 1, which relates to invoice number 1-2-0-1-0-9, and down the bottom there's a date, 28 July, 2009. 1-2-0-1-0-9. Do you have that?---(NO AUDIBLE REPLY)

THE COMMISSIONER: Sorry, did you say at page 291 of the Exhibit 1?

MS SOARS: Exhibit 1.

THE WITNESS: Exhibit 69A?

MS SOARS: Yes.

THE COMMISSIONER: Can you just give me the number again? Is that the number of the invoice?

MS SOARS: It's at page 291 of the Exhibit 1.

THE COMMISSIONER: Yes.

10

MS SOARS: And it has, Invoice 1-2-0-1-0-9, the last digits.

THE COMMISSIONER: All right. Mine's illegible so (not transcribable)

THE WITNESS: I've got that invoice here, yes.

MS SOARS: And I'm putting to you that you dated that non-order voucher. That's correct, isn't it?---I don't believe so.

20

And in relation to the document at page 293 of Exhibit 1, which relates to invoice number 2-6-0-1-0-9, do you have that one, also dated 28 July, 2009? ---Yes, I have the document.

You mentioned, you mentioned in your evidence, didn't you, that it looks like your initials. Is that correct?---It looks similar to my initials, yes.

Yes. And I'm putting to you that the date is also a date completed by you in your handwriting?---The date is similar to the way that I would write numbers, yes.

30

And if I can take you to invoice number 0-3-0-2-0-9 at page 295 of Exhibit 1. Again, this is a, sorry, do you have that?---No.

0-3-0-2-0-9?---Yes, I have it.

And again this is one that, you accept, do you, that it looks similar to your initials. Is that correct?---It looks similar to my initials but I didn't sign that document.

40

And that, I'm putting to you that you put the date on that docket. That's correct, isn't it?---No.

Do you accept that it looks similar to a date you might put on a document? ---(NO AUDIBLE REPLY)

THE COMMISSIONER: Ms Soars, really.

THE WITNESS: It looks similar, yes.

MS SOARS: I have one more to go, Commissioner, and then I've finished.

THE COMMISSIONER: Thank you.

MS SOARS: I apologise for drawing that out.

10 THE COMMISSIONER: No, no, no. That's all right. I think it was my mistake. I thought you were asking about the initials and I realise you were asking about the numbers. I'm sorry. There was a kind of repetitiveness in it.

MS SOARS: There is a definite repetitiveness, but there are a number of non-order vouchers.

THE COMMISSIONER: I understand. You're entitled to ask the question.

MS SOARS: In relation to the last one, invoice 1-6-0-2-0-9 at page 297 of Exhibit 1, do you have that?---1-6-0-2-0-9?

20

Yes?---Yes.

And that's Exhibit 69, could you tell us what exhibit number it's got on it? ---D, it's just got a D on it.

D. Thank you. And that's another one which has initials on it that you say are similar to yours. Is that correct?---Similar to my initials, yes.

30 And I'm putting to you that the date on that document was put on by you. That's correct, isn't it?---No.

You accept that the date is similar to your handwriting?---Yes.

I don't think I need to take it any further, Commissioner.

THE COMMISSIONER: We have a Michelle Lazarus not here. Hasn't been in the hearing room, she hasn't got a representative.

40 MR ALEXIS: No.

THE COMMISSIONER: Well I think we'll just have to proceed without her.

MR ALEXIS: Yes.

THE COMMISSIONER: Ms Furness.

MS FURNESS: Okay.

MR ALEXIS: Can I say, Commissioner that unless I'm instructed otherwise I did understand that she was in the hearing room as was Jessica Lazarus when Mr Hogan made the application that he did. And therefore was privy to what was put to the Commission and - - -

THE COMMISSIONER: Yes, I saw, I saw them anyway.

MR ALEXIS: Thank you, Commissioner.

10

THE COMMISSIONER: I saw them in the inquiry room, I beg your pardon.

MR ALEXIS: Yes, yes. Well unless Ms Furness has any questions of the witness - - -

MS FURNESS: No.

THE COMMISSIONER: She has no questions.

20

MR ALEXIS: Thank you. I have nothing further for Dr Sywak and I ask that he be released from further attendance.

THE COMMISSIONER: Yes, you're, you're released from further attendance, Dr Sywak. Thank you for your evidence?---Thank you.

THE WITNESS EXCUSED

[4.24pm]

30

MR ALEXIS: Commissioner, keen as I know you are to hear from another witness this afternoon, I don't have one. So I'd ask that we now adjourn until Monday morning. I can indicate that we have a number of witnesses lined up for Monday, including further examination of Professor Hacker and Dr Burton, albeit on limited issues.

THE COMMISSIONER: So I take it Ms Soars, you're not going to ask for an adjournment now that you have this notice.

40

MS SOARS: I must say it depends what they say, Commissioner.

THE COMMISSIONER: Well I have to tell you that I will need to be persuaded that you need more time again. We're all in the same boat now.

MS SOARS: It just depends on, I'm not sure, my learned friend hasn't told me, this is the first notice I've got of these two witnesses. And I'm not sure if - - -

THE COMMISSIONER: You've got the whole weekend.

MS SOARS: - - - statements are going to be delivered or not.

MR ALEXIS: Well as has occurred consistently - - -

THE COMMISSIONER: I know, maybe they will be.

10 MR ALEXIS: - - - for the statements of witnesses who are being called on Monday together with a list will be, will be served with ample time. I expect Commissioner that there will be further witnesses on Tuesday. We may not occupy the whole day. And can I indicate that I would then seek to have the inquiry adjourned until a time later in March for the purpose of completing final examinations of Ms Sandra Lazarus, Ms Michelle Lazarus and Jessica Lazarus.

THE COMMISSIONER: I regret that we haven't finished - - -

20 MR ALEXIS: Yes.

THE COMMISSIONER: - - - but we've done our very best to finish and it just hasn't been possible. The date that I have in mind is 23 March and going on to the end of that week. I think that's a Wednesday, so that will be three days there. Now Ms Furness, I understand you have a problem with that.

MS FURNESS: I do, Commissioner. I am elsewhere for that entire week.

30 THE COMMISSIONER: Yes, I'm sorry, but there isn't another time and no doubt Mr Lynch, well - - -

MS FURNESS: I have no idea about Mr Lynch's availability, Commissioner.

THE COMMISSIONER: Well somebody will be there. I'm sorry, but there is, your interests I think are not very far removed from Mr Alexis' in this.

40 MS FURNESS: Well I wouldn't agree with that, Commissioner.

THE COMMISSIONER: All right. Well I'm sure you're right. Anyway, it's going to be adjourned until 23 March and your clients will give it the priority number they think it's worth.

MS FURNESS: 99 I suspect, not - - -

THE COMMISSIONER: It may be 99 or, yes, well very, we'll adjourn until Monday at 10.00am.

**AT 4.27PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.27PM]**