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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION CHARITY

Reference: Operation E10/0035

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON MONDAY 28 FEBRUARY 2011

AT 10.10AM

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MR ALEXIS: Yes, Commissioner, apologies for the slight delay this morning. We've been attending to witness management issues. Commissioner, before I call Dr Valmadre, who is before us in the hearing room this morning to give evidence, can I draw attention to the fact that Michelle Lazarus and Jessica Lazarus do not appear to be in the hearing room. I, I haven't seen them outside the hearing room and we know that following the conclusion of Jessica Lazarus' evidence on Friday, Mr Hogan sought leave and obtained leave to withdraw. Short of just raising that I'm not sure that that circumstance ought to delay proceedings today.

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THE COMMISSIONER: It's not possible to stop. We've got a number of witnesses to come, a number of witnesses from the hospitals - - -

MR ALEXIS: Yes.

THE COMMISSIONER: - - - and it would be quite wrong to stop the proceedings.

MR ALEXIS: Yes. Yes. Perhaps what we ought to do, and I understand that Ms Sandra Lazarus is running late, but of course, her counsel and solicitor are here, so that circumstance shouldn't concern us. But perhaps if and when Michelle and Jessica Lazarus arrive, I'll have my instructing solicitor indicate to them that they ought to be in the hearing room and - - -

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THE COMMISSIONER: Well, if they wish.

MR ALEXIS: If they wish. And they ought to, or at least Michelle Lazarus ought to be given the opportunity to participate to the extent that she wishes to in the proceedings.

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THE COMMISSIONER: Yes. And, and Jessica.

MR ALEXIS: Yes. Yes.

THE COMMISSIONER: Yes, quite.

MR ALEXIS: The other matter I wish to raise by way of preliminary is this, I have available to me witness statements from two persons who give evidence in relation to the subject of ethical approval. The effect of each of their statements is that no ethical approval was given in relation to any clinical trial at either of the two hospitals. I don't understand that to be a matter in issue and I wish to raise it because if it is a matter in issue I will serve the statements and if there's a contest I'll make the two witnesses available. But I do propose to proceed on the basis that that is not a matter in issue and therefore I don't need to burden the Commission with evidence on that subject matter. The other matter I should raise is that Dr Donald Marsden, a former associate professor at the Royal Hospital for Women is presently operating in Laos and I'm having up-to-date inquiries made as to

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his availability assuming of course that my learned friend, Ms Soars, wishes to cross-examine him in relation to his signatures that appear on the requisition forms. When I'm in a position to update the Commission on arrangements in that regard, I'll do so.

THE COMMISSIONER: Do we have a statement from Dr Marsden?

10 MR ALEXIS: We do, yes, we do. And they will be served today and I've discussed with my learned friend the potential difficulties of securing his availability. He has at least indicated a preparedness to participate in the inquiry via telephone. That is perhaps a practical way in which to deal with it. It's a matter of balancing that opportunity with his operating schedule. It may be that Wednesday morning might be a time that we can accommodate him. But when I'm in a better position to indicate with clarity what we do about Associate Professor Marsden, I'll indicate that to the Commission.

So, Commission, with those preliminary matters having been dealt with, could I now call Dr Susan Valmadre.

20 THE COMMISSIONER: Yes. Ms Furness, I take it you're acting for Dr Valmadre.

MS FURNESS: I am, your Honour.

THE COMMISSIONER: And do you wish me to make a section 38 order?

MS FURNESS: No.

30 THE COMMISSIONER: Dr Valmadre, won't you be seated, please.

DR VALMADRE: Seated, yep.

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

DR VALMADRE: Um - - -

THE COMMISSIONER: It's a matter for your person conscience.

40 DR VALMADRE: Oh, under oath is fine, yeah.

THE COMMISSIONER: Yes, Mr Alexis.

MR ALEXIS: Thank you, Commissioner.

Madam, is your full name Susan Marie Valmadre?---Yes, it is.

10 Thank you. You are a medical practitioner?---Yes, I am.

And you specialise in the area of gynaecological oncology, is that so?
---That's correct.

And in this matter is it the case that you've provided a written statement of evidence on 4 August, 2010?---Yes.

Can I show you a copy of your statement with a copy for you, Commissioner.

20

THE COMMISSIONER: Yes.

MR ALEXIS: Doctor, is that a copy of the statement of evidence to which I've just referred?---Yes, it is.

And is the content of that true and correct to the best of your ability?---Yes, it is.

Thank you. I tender the statement, Commissioner.

30

THE COMMISSIONER: Dr Valmadre's statement will be Exhibit 70.

#EXHIBIT 70 - STATEMENT OF DR VALMADRE

MR ALEXIS: Now, doctor, should we understand that you conduct a private practice at premises in Wollstonecraft as we see in paragraph 3?
---Yes.

40

And we should understand your qualifications and experience are those set out in paragraph 6 of your statement?---Yes.

Now, is it the case that you have visiting medical officer status with the Royal North Shore Hospital?---Yes.

And through that arrangement you have come to work with Dr Gil Burton?
---Yes.

And in paragraph 5 of your statement, having referred in paragraph 4 to your work at both the North Shore Public Hospital and private hospital you tell us that you work very closely with Dr Burton at Royal North Shore. Could you just describe that association professionally and how it is that you come to describe that working relationship as very close?---Dr Gil Burton is the director of the department so any issues, clinical or otherwise that I have pertaining to work I, I would discuss with him. He also, in, in private practice we work very closely, we're in the same obstetric practice and so I participate and cover, covering his practice occasionally so we do have a close working relationship in that way.

All right. Now, in paragraph 9 of your statement you provide us with some detail about the gynaecological oncology clinic or clinics that run at the Royal North Shore Hospital. Can you tell us about those please, together with your involvement in them?---The clinics are Monday morning, every Monday morning. I supervise a clinic with another gynae-oncologist, my colleague in the lower North Shore, Dr Greg Gard, together we run the clinic with registrars and a gynae-oncology nurse, Jane Matens.

And Dr Burton we should understand is the head of that department that includes that clinic, is that - - -?---Correct, yes.

Could I come to some detail concerning the occasion when you first met Ms Lazarus and in paragraph 13 you tell us that that was approximately some time towards the end of the 2008 year, do you see that?---Yes.

And paragraph 13 refers to your conversation with Dr Burton but should we understand that it was shortly after that that you then spoken with Ms Lazarus?---It was, from memory it would be approximately a week.

All right. Now, just having got the timing as clear as we can, firstly the conversation with Dr Burton, can you recall to mind what Dr Burton told you during that conversation concerning this student?---I don't recall the exact words but essentially Dr Burton made mention that he had a research student who was interested in doing some work with cervix cancer patients, given that I'm a subspecialist in gynae cancer work he thought that I would be able to help with provision of, of (a) guidance of the research activity and (b) access to patients who may be able to participate in her study and I understand that the other gynae-oncologist, Greg Gard, was approached in the same way.

All right. And from that conversation with Dr Burton, did you understand the student's name?--- I must say I can't accurately recall that. I can't give a yes or no answer, no.

Okay. Now, can we come then to the conversation with the person to whom Dr Burton was referring to. Firstly, can you recall where that conversation occurred?---The conversation with Gil?

No, no, no, with the student that he was referring to?---With the student. Yes, in my rooms. Excuse me. I, in my rooms at AMA House at Christie Street. They were temporary rooms. I was there for approximately twelve months over the 2008 period. And she came to my consulting rooms at AMA House and we sat down in the consulting room and spoke.

10

Now, where is Dr Burton's consulting rooms in relation to the rooms that you've just referred to as your consulting rooms at that time?---Dr Burton has consulting rooms at North Shore Private Hospital.

Ah hmm?---The consulting suites there. I think they're on level 3.

Right. So was an appointment made for this female to come and speak to you, do you recall?---Yes, yes.

20

And she attended?---She did. She called my secretary, as was the instruction. She called my secretary and my secretary fitted her in between patients.

Right. Now, can you recall how she introduced herself to you when you spoke?---Ah, my recollection is that she said her name was Michelle Lazarus, but in terms of qualification, I don't recall that, no.

30

All right. And in paragraph 15 you tell us in the second sentence there, after the reference to Michelle Lazarus, that you spent about half an hour in discussion about her proposal. Do you see that?---Yeah, roughly it would have been about half an hour.

40

And can you recall what was discussed during that discussion?---I spoke with her about what she thought she might like to do and she, she mentioned that she was very interested in, in aspects of cervix cancer, however it was quite vague to me in the way that, that what she actually wanted to achieve in, in, in her research proposal. So we just sort of spoke about my experience with cervix cancer in my current practice. You may not be aware that cervix cancer is a very uncommon cancer in Australia, given the Pap smear screening program, so a normal practice would not have adequate numbers say to, to furnish such a study, such, you know, a big research study. So we just sort of discussed the fact that numbers may be a problem and how is she going to address that. And I also made mention of the fact that I did a lot of the work from Noumea and they see a lot more cervix cancer patients there and so through the Mater I see a lot more cervix cancer patients from Noumea and the Noumean patients, I thought maybe that may be an avenue that we could sort of go down to, to get the patient numbers that she required. We were just sort of speaking about really patient accrual

and how that may be potentially a difficult or a challenge to what she wanted to do. But in terms of, she did not really have a clear goal or research topic in mind. And so we left the conversation with me saying, you know, she needed to have a think about what she wanted to do and then maybe we could sort of touch base again in a couple of weeks, just after she sort of had a bit of a think and maybe did a bit of literature review around the subject that she was interested in. And subsequent to that, I sent a couple of emails and also a number of phone calls which were not returned and I just thought, oh, she may not be interested in doing the project any
10 more, and that's where we left it.

All right. Well I'll come to that, but just on the numbers and prevalence of cervical cancer in Australia that you touched on in your answer to my question?---Yeah.

Do we see some detail concerning that in paragraph 37 of your statement? If you could just look at that, please.

And just in terms of one of the subjects that was discussed, should we
20 understand from paragraph 38 that she indicated to you that she wanted to be, she wanted to involve patients with abnormal pap smear tests in addition to patients with cervical cancer?---Yes.

All right. Now if I can just bring you back to paragraph 16. And do you see that you've referred there to making a suggestion to who you describe as Michelle Lazarus, the making available of patients with pre-invasive and invasive cervical cancer. And could you just assist us to understand what you mean by those two expressions, perhaps in the context of what I referred earlier to Ms Lazarus wanting to be involved with patients with
30 abnormal pap smear tests?---The abnormal pap smear tests can cover a whole gamut from someone with pre-invasive pre-malignant precancerous changes, which are the, the pap smear abnormalities that we most commonly see through to someone with full blown cervix cancer. So the, the pre-invasive patients are those patients with the pre-cancer changes, which precede the actual occurrence of cervix cancer. There's a lot more of those patients that, that present.

All right. Now I want to show you Exhibit 1, which is a bundle of
40 documents in this inquiry. And I'll ask you to open the folder please to page 151. You'll see the page numbering on the top right hand corner. Do you have page 151?---Yes, I do.

And if you can just take a moment to look at the document addressed to the Human Research Ethics Committee at North Shore and if you could note particularly as you're reading it the second paragraph and the reference to you and also the provision at the foot of the page for you to potentially sign the document?---Yes.

Have you ever seen that document before?---Absolutely not. No, I have not.

And if you could turn the page to 153 and you'll see that's the first page of an online National Ethics application form. Do you see that, what I've referred to?---Yes. Yes, I do.

And on page 153 you'll see in box number 2, description of the project and about four or so paragraphs down, you'll see a reference to 200 female patients with abnormal pap tests and other references. Do you see that?
10 ---Yes, I do.

And if you could just take a moment to look through the balance of that application form which I can indicate to you runs through to page 204 inclusive?---Ah hmm.

And just let me know when you've done so. I don't suggest you ought to read it, I'm just asking you to leaf through each of the pages because I'm going to ask you whether or not you've ever seen the form of application ever before.
20

THE COMMISSIONER: This form of application - - -

MR ALEXIS: Yes.

THE COMMISSIONER: - - - or a form of application in these terms?

MR ALEXIS: Yes, thank you, thank you, Commissioner, I should make it clear. My question is going to be whether you've seen a form of ethics application like the one copied from page 153 to 204 inclusive?---I have seen forms like this, yes.
30

But did you see, ever see one provided either by Ms Lazarus or being provided in relation to any clinical trial to be conducted by Ms Lazarus?
---No.

Now, on the subject of ethics applications it's been suggested in evidence before the inquiry at page 273 of the transcript lines 10 to 20 and, Dr Valmadre, that's a reference for the Commissioner?---Okay.

40 The suggestion has been made that you had a conversation with Ms Lazarus and could I ask you to put to one side whether it was with the person that we now know to be Michelle Lazarus or Sandra Lazarus, the precise identity of the person doesn't matter for this question, but the suggestion is that you had a conversation with Ms Lazarus to, to the effect that she needed to obtain ethical approval before seeing a patient and that in response to that she said to you that it would be prepared and that you would be given a copy. Now, were you involved in any conversation about that subject matter with a Ms Lazarus?---I remember speaking to Ms Lazarus about how

to go about doing a research project of this nature because she didn't seem to sort of have a lot of idea about, you know, the next step and I said ethical approval would have, have to be obtained prior to us being able to do anything. I said, you know, that can often take many months and so she should sort of start to, to sort of put that in place but really until she had the project, the nature of the project clarified it was not something that she could do anyway but yes, I did mention to her about the need for ethical, ethics approval, ethics committee approval prior to embarking on, on patient accrual and in terms of whether, the rest of the conversation, whether that was going to be prepared I can't recall that being said.

Do you recall her saying in response perhaps to your reference to ethical approval and the need for it, that she was in the process of developing the ethics application and when it's prepared you'll be given a copy, something to that effect?---I, I, I can't say that I do recall that being said, no.

All right. In any event, you don't receive, you don't believe you received a copy of the document at page 151 and that's a reference back to the white folder before you?---I've not seen that before, no.

Or the draft form of ethics application that I've just taken to?---No, I have not seen that before.

Now, after this conversation with Ms Lazarus you've referred to some emails and some telephone calls that you made, just in relation to the emails, to whom were they sent as best you recall?---I guess what I said, I sent them, it was actually my secretary on my behalf trying to, because, excuse me, Ms Lazarus failed to attend an appointment that she had with me and it was really, you know, following up on, on her not coming to that appointment and so I think my secretary sent at least one if not two emails and, and made about two phone calls, yeah.

All right. And the phone calls, I just want to get that clear, is that your secretary trying to ring not you?---My secretary would call on my behalf, yes.

And do you know whether messages were left or - - -?---You know I can't recall that accurately, no.

All right. So after the first discussion, after the emails and the attempt by telephone to make contact, what happened next in relation to Ms Lazarus?---I really didn't hear from her again. There was, there was no contact.

So you've had the singular conversation with her and that's it?---Correct.

Now in paragraph 26, if I could as you to go to that, please, of your statement. You there express a belief that Dr Burton, pardon me, would have informed you of any approved clinical research trial or project

involving patients of the department and you being provided with a copy of the approved protocol if that had proceeded. Do you see that?---Yes, I do.

Now first of all can I ask for Exhibit 27 be shown to Dr Valmadre, please. While that's being obtained, let me ask you a question and I'll come back to that document?---Yep.

Can you tell us the basis upon which you expressed the belief that you would have been informed about the conduct of any trial by Dr Burton?
10 ---It's standard procedure. If there is a clinical trial being instituted within a department it's standard procedure to either discuss it at a public forum, whether it be a department meeting that we have every month or with individual people who are involved and the people who would be recruiting patients would have a copy of the protocol that, that they would have for their records.

All right. Just have a look at the document that was provided to you a moment ago. It's Exhibit 27?---Ah hmm.

20 And you'll see that it's headed Clinical Study Protocol?---Ah hmm.

And if you drop down to the third box under the heading Study Synopsis - - -?---Yep.

- - - you'll see the reference to 200 female patients with abnormal pap tests. Do you see that?---Sorry, so where are we - - -

I'm just looking at the first page?---First page, sorry. Yep.

30 You see the box under the heading Study Synopsis?---Yes.

And you'll see in the third - - -?---Yes.

- - - box adjacent to the words population and study groups - - -?---Yes.

- - - a reference to the 200 patients with abnormal pap tests?---Yes, I see that. Thank you.

40 Now I just wish to understand whether either prior to or during the conversation with Ms Lazarus that you've told us about, you ever received a document called a Clinical Study Protocol in the form of Exhibit 27?---No, I, I did not.

Did you ever receive anything like that?---No, never.

Relating to a study of female patients with abnormal pap tests?---No.

Whether 200 or some smaller number?---No.

Now, thank you, that can be returned. Dr Valmadre, you referred in answer to my question about why you expressed the belief that you do in paragraph 26, that it's standard protocol or standard procedure for you to be informed about that. What about if the proposed study or the proposed trial related only to a pilot group of about 10 patients, would you still believe that Dr Burton would tell you about that?---Unless Dr Burton was, was going to perform the study himself with Ms Lazarus and not involve anyone else, I, I think that maybe under those circumstances that, you know, it's possible that I may not be informed. However, the fact that Dr Burton approached me and asked me to be involved, any (not transcribable) what size patient population or whether it be a clinical study or a clinical pilot, I would need to be involved, informed as a person involved.

THE COMMISSIONER: Dr Valmadre - - -?---Sorry?

Sorry, I didn't mean to interrupt but would you please, are you able to comment on the feasibility of a pilot study of 10 patients?---The feasibility, meaning the cost at which it could be done (not transcribable)?

The reliability?---It wouldn't be reliable. You wouldn't be able to draw any statistical conclusion from it.

Why is that?---I doubt whether you'd have the number to give it power.

Have you ever known of a pilot study on a research project involving only ten patients?---Sure. And the pilot study is not designed to prove the research question, it's designed to prove that the research question can be answered using this format.

Yes. So, but my question was, have you ever known of a pilot study for a research project involving only ten patients?---I'm sure that, yes, I'm sure that would, they would exist, yes.

That would be feasible, to use ten patients in a pilot study to determine whether it's worthwhile going on?---Correct.

MR ALEXIS: Just on that subject, doctor, could you turn to page 277 of Exhibit 1. It's towards the back of the folder?---Ah hmm.

Now, before I come to the letter, can I just ask you, when you spoke to Ms Lazarus on the occasion you've told us about, do you recall any particular mention of the conduct of any pilot study?---No, I don't.

And just looking at the page 277 of Exhibit 1, if you could, pardon me, just read the first and second paragraph of that letter, and I wish to note in particular the reference to the research team. Just let me know when you've done that?---Yes, I have.

Thank you. Now, prior to May 2009 did you ever have an understanding that you were part of a research team- -?---No.

- - -in relation to the subject matter referred to in the letter?---No.

Prior to May of 2009, did you become aware or have any knowledge at all of the conduct of what's referred to in the letter at page 277?---No.

10 No one ever told you that you were part of a research team to conduct a preliminary research trial as is referred to in the letter?---No.

THE COMMISSIONER: Or that any of your patients were involved?
---No.

MR ALEXIS: Now, just a couple of final matters if I may, doctor. After the conversation that you had with Ms Lazarus in your old consulting rooms, did you ever see that woman within the gynaecological oncology clinic at any time after?---No, I did not.

20

Did you ever see her have contact with any patients attending that clinic?
---No, I did not.

Do you recall any occasion where she approached or spoke to or tested any of the patients attending the clinic with the Medex device?---No.

Now, in relation to the subject of patient lists, in paragraph 22 you tell us that Ms Lazarus or any other student would not be allowed to have a personal hard copy of a daily patient list for the oncology clinic due to
30 privacy issues. Do you see that?---Yes.

And can you just explain why a medical student wouldn't be able to have access to a patient list if they were conducting a clinical trial involving patients attending the clinic?---The structure of the clinic means that there's a corridor of perhaps five consulting rooms which are gynae-oncology, for use of gynae-oncology.

40 Mmm?---There's a central kind of area outside of those, of those rooms within a bit of a corridor that allows the patient, where the patient files are stacked and they're, they're taken off and subsequently seen in the various consulting rooms. The only patient list or copy is, is thumb-tacked to like a corkboard above where those files are kept and it, it's a handwritten patient list and it's got the patient number, file number, name and that's actually all that there is there. There's no sort of diagnosis or, or any further information so it's just the patient file number and the patient name, handwritten note, one copy, it's above the, the notes on the corkboard.

So just looking at the patient list and excluding all other knowledge about the patient - - -?---Yes.

- - - would you be able to determine from the patient list itself why it was that the patient was attending the clinic?---Absolutely not.

Now, prior to May or June of 2009 and I'm referring to that time because of the date on the letter that I've just taken you to at page 277 of Exhibit 1, did you ever have any conversation or any form of communication with
10 Dr Burton about the subject of a preliminary research trial being conducted to evaluate the merit of the Medex device as a cervical cancer diagnostic device?---No, I didn't.

Yes, thank you, Dr Valmadre.

THE COMMISSIONER: Dr Valmadre, there's other, a couple of other barristers who need to ask you some questions?---Okay.

MS SOARS: Dr Valmadre, my name is Julie Soars and I'm the barrister for
20 Sandra Lazarus. You gave some evidence, did you, that from time to time you, you and Dr Burton overlap in your practices and did you say you provided cover for each other from time to time?---On the weekend, we're part of the same obstetric group. There's about 13 or 14 of us so there's a roster to, to cover weekends, yeah.

And is it correct that Dr Burton's area of specialisation therefore covers patients with cervical oncology disorders - - -?---No.

- - - in the same way that yours does?---No, it doesn't.
30

Why do you say that?---Because it's only obstetric practices that, it's, with, with obstetrics and gynae there's an obstetrics practice, there's a gynae practice and as a subset of my gynae practice I'm a gynae-oncologist so no, that's quite separate to the obstetric practice and we cover each other's obstetric practice.

Only?---Only, correct.

It's entirely possible though, isn't it, that Dr Burton sees patients from time
40 to time who have abnormal pap smears, that's correct isn't it?---Yes, yes, sure.

He does?---Yes.

As part of his general practice?---General gynae practice, yes, correct, yeah.

And would you be able to estimate how many he might see or you just know
- - -?---No, I'm sorry.

You would just know that he would see them from time to time?---As a part of a general gynaecology practice you see women with abnormal pap smears, yes.

Thank you. Commissioner, I just want to go to the identity issue and as my learned friend mentioned unfortunately my client has been delayed.

THE COMMISSIONER: It's sad, Ms Soars.

10 MS SOARS: Well, the way I propose - - -

THE COMMISSIONER: Your client should have been here.

MS SOARS: Yes, thank you.

THE COMMISSIONER: In fact the, when did you get this statement from Dr Valmadre?

20 MS SOARS: Friday at about 5.00pm.

THE COMMISSIONER: Well, it's obvious what the position was.

MS SOARS: I did, I did ask for instructions but I propose to deal with it this way, Commissioner, at page 145 of Exhibit 1, I don't know if you still have that in front of you?---Yes.

It's a rather poor photocopy of an identity photograph of my client?---Yes.

30 I, I just will inquire whether we have the original of that document or the original hospital pass of my friend? There's an attempt being made to obtain the colour photographs, Commissioner, just so that this can be clarified.

THE COMMISSIONER: It would have been helpful if advance notice had been given of this so there'd be no waste of time.

40 MS SOARS: Thank you, Commissioner. It's difficult, we can't get access to the room before 10.00am and I didn't have a chance to discuss it with my learned friend.

THE COMMISSIONER: All right.

MS SOARS: So it's been alleviated by the fact that my client has now entered the room. Sandra, do you mind standing up, please. Dr Valmadre, this is my client, Sandra Lazarus?---Yes.

Is this the person that you met who you refer to in paragraph 15 of your statement?---You know, I honestly can't recall.

You cannot recall if this lady standing is the person that you met?---No, I cannot recall, no.

Thank you. And is it possible that for example, she introduced herself as Sandra Lazarus and you've become confused and think it was Michelle Lazarus?---I guess that is possible. Michelle Lazarus was the name that was in my, in my mind. But this is some two years down the track. And it was a brief meeting. It was a one off brief meeting and you know, I guess I could
10 have got confused, yes, correct.

THE COMMISSIONER: When did you first hear the name Sandra Lazarus, Dr Valmadre?---I, probably when I, my statement was taken from a representative from the ICAC.

Had you heard the name Sandra Lazarus before then?---I don't, don't think so, no, no. But, you know, I guess recall of names is not, yeah, I can't say that - - -

20 Did the investigator ask you the name of the person who you have seen or did he tell you the name?---He most certainly didn't tell me and Michelle Lazarus was the name that I, that I remembered.

And gave to him?---Yes.

And put in your statement?---Yes, correct. Yep.

MS SOARS: You were asked some questions about if the study was only a pilot group of 10 patients, whether you thought that Dr Burton would tell
30 you about it and your answer according to my note is that you said unless Dr Burton was performing the study himself with Ms Lazarus, then you may not be informed. That's your answer isn't it?---Correct.

And in relation to a study of abnormal pap smears in relation to Dr Burton's patients, you accept don't you for a small pilot study of 10 patients that it's possible that Dr Burton wouldn't have told you about that study?---Well if you're talking about 10 patients with abnormal pap smears, they would be able to be accrued from one persons practice. But if you're talking about
40 200, for example, patients then you'd need to sort of have other people involved with patient accrual, that's what I was indicating, is that Gil, Dr Burton may not need to get other people involved to do that particular study. And if we're not involved then we don't need to be informed.

I see. Just in relation to Dr Burton's private consulting rooms?---Yes.

The area where you were, the clinics are run is away from that area isn't it? ---Yes. Gil, Dr Burton's private rooms are in North Shore Private and North Shore public hospital is a short walk across the way. That's where I have

my public clinic. And my private consulting rooms are based at They Martyr, which is about a kilometre away, yes.

So in different buildings is your evidence. Is that correct?---Correct. Ah
hmm.

They're the only questions, Commissioner.

THE COMMISSIONER: Ms Furness.

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MS FURNESS: Nothing, thank you.

THE COMMISSIONER: Mr Alexis.

MR ALEXIS: Dr Valmadre, can I just show you this photograph and see if we can try and get to the bottom of the question of who it is that you saw. Now having been shown that photograph, does that assist your recollection in identifying who it was that came to see you on the day that you refer to and had the conversation with?---I'm sorry, I wish I could be more helpful.

20

I can't say for sure, no.

Okay. Can we just note on the transcript that Dr Valmadre was shown a photograph of Michelle Lazarus. Yes, thank you, Commissioner, I don't have anything further for Dr Valmadre.

THE COMMISSIONER: Thank you.

MR ALEXIS: If she could be excused.

30

THE COMMISSIONER: Yes. Thank you.

THE WITNESS EXCUSED

[10.55AM]

MR ALEXIS: Commissioner can I now call Ms Vanessa Madunic. And, Commissioner, can I indicate that Ms Madunic attended the hearing I think both Thursday and Friday with the intention of giving her evidence and she's been delayed, and I just wanted to note that because she's been waiting patiently, Commissioner.

40

THE COMMISSIONER: Thank you for waiting patiently, Ms Madunic. I'm sorry that your time has been wasted. Ms Furness, are you representing Ms Madunic?

MS FURNESS: I am, and I seek a declaration (not transcribable)

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

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

20

THE COMMISSIONER: Ms Madunic, would you like to give your evidence under oath or do you wish to affirm the truth of your evidence?

MS MADUNIC: Under oath, please.

MR ALEXIS: Thank you, Commissioner. Madam, could you state your full name, please?---My full name is Vesna Maria Madunic. I'm also known as Vanessa Madunic, so please call me Vanessa.

Thank you. Your current occupation is that of director of corporate and clinical support at the Royal Hospital for Women?---That's right.

10

And during the period that this inquiry is concerned with, you held the position of deputy director of clinical services?---That's right.

And in this matter is it the case that you have provided two statements of evidence, the first dated 3 August, 2010, the second dated 10 February, 2011?---That's right, I have.

20

Can I provide you with a copy of each of those statements, together with a copy for you, Commissioner. And, Ms Madunic, is it the case that the first statement should be read subject to the second, because the second deals in a little more details with matters concerning security identification?
---That's right.

And read together, the statements as a whole are true and correct to the best of your ability?---To the best of my knowledge, yes.

Thank you. Commissioner, can I tender each of those statements, please?

30

THE COMMISSIONER: Yes. The statement of Ms Madunic of 3 August, 2010, is Exhibit 71 and her statement dated 10 February, 2011, is Exhibit 72.

#EXHIBIT 71 - STATEMENT OF MS MADUNIC DATED 3 AUGUST 2010

#EXHIBIT 72 - STATEMENT OF MS MADUNIC DATED 10 FEBRUARY 2011

40

MR ALEXIS: Thank you. Now, Ms Madunic, should we understand that you've set out your qualifications in paragraph 5 and a short statement of your duties as deputy director of clinical services in paragraph 4 of your first statement?---That's right.

Now, I wish to come to paragraph 6 and the procedure in relation to a research student undertaking a clinical trial and the subject of ethical

approval. And I think you deal with that to some extent in paragraph 6. Is that so?---Yes.

Now, in paragraph 7 you say that you normally don't get involved in the process, that is the ethical approval process, unless a special purpose trust fund is required. Is that the position?---That's right. So in terms of special purpose trust funds I would indicate how they would go about establishing one of those.

10 All right. I'm going to come back to some detail concerning creating a trust fund in a moment. But just on the subject of ethical approval, you tell us in paragraph 12 that you learn of the processing of ethic applications through the minutes. Do you see that in paragraph 12, first sentence?---Yes. Yes, I do.

And should we understand that you ordinarily receive the minutes of the Scientific Review Committee or the Human Research Ethics Committee or what?---I actually receive the minutes of the ethics committee and on, as soon as the minutes are produced they are sent to me- - -

20

And---?- - as a, as a copy.

And you may or may not be able to answer this question but why are you sent the minutes of the ethics committee?---The reason I'm sent the minutes is basically just to look through to make sure that the studies that are undertaken at the Royal, to see what the outcome of those are, whether they've been approved or not approved and then that way that just gives me some understanding of what's going on within the organisation just in case I need to get involved in any of the matters.

30

THE COMMISSIONER: Ms Madunic, would you see, would you have notice of any application made by Ms Lazarus for ethics approval?---I would see within the minutes that there would have been an application made.

And did you ever see that?---I did see mention of an application to the best of recollection.

40 MR ALEXIS: Now, if you could be shown Exhibit 1 and we'll be coming back to this bundle of documents a few times, Ms Madunic, but firstly could we start at page 101, the page numbering as you probably know is in the top right-hand corner?---Yes.

And we see that to be a copy of the letter from the scientific review committee to Professor Hacker in relation to an application for approval in relation to the proposed trial dated 25 June, 2008?---Ah hmm.

Now would you ordinarily be copied with that letter?---No, I wouldn't see this much detail.

All right. At paragraph 13 of your statement I think you say in terms before exhibiting a copy of that letter, "I do not recall ever sighting an approval, I don't recall ever being requested to set up a trust account for this research project," do you see that?---That's right.

10 So should we understand that you never saw the letter which indicated that substantial amendment was required to the application?---That's right, I didn't see the - - -

So just coming back to paragraph 12 and the minutes, do you recall being notified about anything concerning this application for ethical approval in any minutes?---So what I usually get is an email with basically a line, a couple of lines to say whether or not it was approved or not approved and my recollection is that it was not approved.

20 All right. Now - - -?---But I didn't see the detail in relation to it, it was just a, a couple of lines.

Can you help us on timing. This letter you see is dated 25 June and if you come to the second page - - -?---Ah hmm.

- - - page 102 and if you look at the fourth last paragraph, the one commencing, "Please note," do you see that?---Yes.

30 And you'll see in that paragraph there's reference to information being requested and if not received within three months or two meetings the project will be dismissed, do you see that?---I do.

Now, I'm just trying to understand when you refer to an email which confirmed in terms that no approval had been given did it identify that no approval had been given because the application was dismissed or was there any other information about it or - - -?---I can't recall what the actual information stated but it, it did suggest that the request has not been approved and I don't, I don't recall the word dismissed.

40 All right. Thank you. Now, can I came to your first meeting with Sandra Lazarus, you tell us in paragraph 8 of your statement, if we go back to that please, that that occurred some time in April 2008, is that so?---That's right.

And so when you first met her was that in company with Professor Hacker? ---Yes.

Can you recall how it was that he described Ms Lazarus in company, in her company with you?---Yes, he described her as a research student who was going to undertake research using some type of product and I didn't quite

understand, because I don't, I'm not from a medical background I didn't understand how the product would work but she was certainly, he was certainly stating that she was going to undertake some research on patients with cancer, gynaecological cancer.

And did he, did he describe her as a particular type of student?---I recall PhD student and, and that's pretty much how he, he stated - - -

Did he indicate at which university she was a student of?---Sydney.

10

And you've put in quotation marks at the end of paragraph 8 and attributed to Professor Hacker "getting Ms Lazarus onto the books," do you see that? ---Yes, I do.

Now, you then explain that by referring to obtaining an employee number, do you see that?---That's right.

So is that, is that your interpolation of Professor Hacker, that getting her onto the books means making her an employee?---That's right.

20

Now, can you try and recall to mind whether Professor Hacker said anything else to you about the subject of getting her onto the books and making her an employee?---He also stated that there was some money coming in to the organisation for her research so that we were going to receive some money to support this clinical trial.

And in relation to the money that was described as coming into the hospital was anything said as to what that money might be used for?---For, for the clinical trial, for, and that was - - -

30

THE COMMISSIONER: I beg your pardon?---For the clinical trial.

MR ALEXIS: But for what in relation to the clinical trial?---So if, and I'm just trying to recall the conversation and because of the fact she was going to be, he, Professor Hacker requested that she was going to be put on the books and therefore employed it would be for some salaries and wages, so salary for the clinical trial.

Okay. What I need to get very clear with you, Ms Madunic, is what it is that Professor Hacker told you rather than - - -?---What I - - -

40

- - - what it is that you may have interpolated or assumed or concluded from the discussion, do you follow?---I do.

So if you could try and be as precise as you can as to what it was that Professor Hacker told you as distinct from what you may have concluded from the conversation?---So I'm just trying to recall, recall the conversation. I note that he walked in with Sandra, described to me who she was and what

she was intending doing. He also noted that there was going to be some money coming into the organisation for the clinical trial and I can't recall in what capacity she was going, in relation to the money what capacity she was going to assume with relation to the, the funds that were coming in so was it an employee or was it for the equipment, I can't recall that so unfortunately that, that, it is either blurred in my memory or it was never really articulated by Professor Hacker.

10 Right. But you did understand from the conversation that he wanted her on the books?---Yes.

And you took that to mean that she was to be provided with employee status within the hospital, is that - - ?---That's right.

Is that so?---That's right.

20 Now, can I ask whether or not you had an understanding following this conversation as to why it was that Ms Lazarus was to obtain employee status within the hospital?---I'm only going to assume here now, unfortunately because I don't recall the exact conversation but when you talk about employee status it could be in an honorary capacity or in a paid capacity so to get her on the books usually implies a paid capacity and I'm assuming and unfortunately I, I don't recall clearly whether or not she was going to be paid from that special purposes and trust fund.

30 But Ms Madunic, we should understand that if a student is to get on to the books of the hospital for their purpose relating to their being at the hospital and there's no intention to pay them as an employee, they're getting on to the books for security clearance purposes and that's all isn't it?---That's right. That's, security clearance purposes and undertaking criminal record check, those type of routine screens that we - - -

Which are the steps one goes through and we'll come to some detail, before they are ultimately given a, a pass with a photograph for security clearance purposes?---That's right.

40 All right. Now when you took from what Professor Hacker said that Ms Lazarus was to be provided with an employee number, did that mean to you volunteer employee not to be paid by the hospital for security clearance purposes or did it mean a paid employee within the hospital?---I would say that that was more on a paid employee basis.

And why do you say that?---I suppose just in relation to the fact that there was funds coming into the organisation.

THE COMMISSIONER: But they don't, the funds don't need necessarily to be for salary do they?---No, not necessarily.

So why does the fact that money coming into the organisation leads to the inference that she's a paid employee?---And this isn't actually in relation to Professor Hacker, but I actually did have a, a meeting or Sandra did come down to the department following our meeting with Professor Hacker and asked whether or not she was an, was going, was signed up or was an employee of the organisation. She did that a couple of times with my secretary and myself. It was just in passing. So I suppose in terms of, in terms of those very brief encounters, that's where the assumption or my understanding of a paid employee came into, into being.

10

MR ALEXIS: All right. What I'm seeking to obtain your assistance on, Ms Madunic, is whether or not the concept of Ms Lazarus getting on to the books of the hospital as a paid employee was the result of what Professor Hacker said to you or was it the result of the initial conversation where he said to get her on to the books and subsequent events?---I would say that it was initial conversation and subsequent events.

All right. Now - - -

20 THE COMMISSIONER: And subsequent events include?---Sandra coming down to the department and wondering what her status was.

I don't really understand how her asking you what her status was influences you in deciding what it was?---When you have someone coming down to, and talking to you and asking has she got a pay, an employee number, then you automatically assume, if you're a volunteer you don't get an employee number. If you're coming in as an honorary, in an honorary capacity you don't get an employee number. If you're coming in as a, in a paid capacity, you will get an employee number.

30

And, and how did you, how did you know that she was to get an employee number?---Because she kept asking for an employee number.

So if someone asks you other than that you're given it?---No. We didn't, we didn't give that - - -

So how, how (not transcribable)?---She actually never received an employee number from the Royal - - -

40 Oh, I see?--- - - - the Royal Hospital for Women. So she was never employed, an employed individual at, or staff member at the Royal Hospital for Women. So she was, from my encounter with her and following Professor Hacker's meeting, she requested, she asked for an employee number and I explained to her, I can't provide you with that. So that was where my understanding of employee came into being.

I see. You thought she was an employee, but nevertheless didn't give her an employee number?---I thought that she was a researcher, a student - - -

Yes?--- - - - coming in to - - -

Who was going to be paid?---Who, following, who I thought, yes, based on a conversation with Sandra, that's where she was leading her, or her, sorry, I'll take that back. That was where my understanding was going, that she was going to be a paid employee. But as we never had a position for her and she was there as a researcher, that could never have been established.

10 Where did you get your, your impression from that she was going to be a paid employee?---From Sandra herself.

MR ALEXIS: So that conclusion that you drew wasn't the result of Professor Hacker telling you to get her on the books?---The conclusion that I drew from Professor Hacker was the criminal record check, the organisational checks, et cetera.

Yes?---And, but it was Sandra who actually made me conclude that that's where it, she was leading.

20

All right. Now you have Exhibit 1 before you. Could you open it please to page 83. Now you see this letter dated 17 April, 2008. Did you receive the original of that letter at some point?---I did receive the original of that one, that letter.

And how did you come to receive the original of that letter?---I don't recall whether or not it was delivered to me by Sandra or given to me by my secretary. I can't recall that.

30 But your recollection is that it's either one or other of those - - -?---Yes.

- - - two sources. Is that so?---That's right.

Can I ask you to look at paragraph 10 of your statement on page 4. And do you see that you're referring to the letter dated 17 April, 2008 which is at page 83 of Exhibit 1?---Ah hmm.

40 And then you say in the next sentence, I can state that I received this letter from Professor Hacker after he had spoken with me directly about Sandra Lazarus. Do you see that?---I do.

Now can you tell us what you meant by that statement in terms of the source of receipt of the letter?---Okay. So in terms of the, that statement, I received the letter from Professor Hacker, as in the signatory, so the person signing the letter.

I see?---Rather than him physically providing me with the letter.

So you've got no recollection of Professor Hacker handing you this letter?
---No recollection whatsoever. On that I'm definite.

Sorry, that you're?---That I'm definite on.

All right?---He did not hand me this letter.

All right. Did you read the letter when you got it?---Yes, I did.

10 And Professor Hacker having told you to get Ms Lazarus on the books, how did you respond to this letter after you'd received it and read it?---Basically I didn't action this letter at all.

Sorry, you did?---I didn't action this letter at all. So it basically says, states that the letter is to confirm the appointment of Sandra Lazarus or Sandra Synthia Lazarus. That from my perspective in terms of employment, when we look at employment it's either paid or honorary. I did not action it so she may have been a person up in gynae-oncology and that was all that she was. So she was undertaking research upstairs.

20

THE COMMISSIONER: Ms Madunic, in paragraph 8 of your statement
- - -?---Ah hmm.

- - -first statement, you say you first became aware of Sandra Lazarus sometime in April 2008. Do you see that?---That's right.

How did you fix that date?---I- - -

30 Or if you're not certain or can't remember, how confident (not transcribable) time period or the month?---Because I received this letter fairly much straight after I'd met with Sandra and- - -

I see. You recall that?---Yes. It was about a week and maybe not even.

40 MR ALEXIS: Now, should we understand that this letter had something to do with the process that followed which ultimately led to Ms Lazarus being given a security ID pass?---The letter itself, the meeting that I had with Professor Hacker would have actually started that process off, so the meeting with Sandra and Professor Hacker would have started the process of giving her an ID card.

Yes. But in terms of that ID card being procured by or on behalf of Ms Lazarus, did the letter at page 83 play any role in that?---Not particularly. Basically the conversation would have, because if anyone comes onto the premises and there is a likelihood of them accessing patients or being in clinic areas, then what we would regularly do or what we would ensure would be done is that those checks are undertaken.

All right. Now, in paragraph 11 of your statement you tell us of your understanding that Ms Lazarus was to be paid through research clinical trial funds- - -?---Ah hmm.

- - -and not through a position of employment at the hospital. Do you see that?---That's right.

And should we understand that you thought that moneys would be coming into the hospital from an external source- - -?---That's right.

10

- - -which would be utilised to pay money to Ms Lazarus?---That's right.

Now, did you ever have any understanding about the amount of money that Ms Lazarus would be paid from those funds, assuming the funds came in? ---No, I didn't have an understanding of how much she would be paid. The only time that I would have had an understanding is, or when I did receive this, this is like a salary classification so if we go to page 83 of Exhibit 1, her payment rate as a principal hospital scientist, that, that's actually a salary classification.

20

THE COMMISSIONER: Do you happen to know how much is- - -?
---I don't know how much it is.

MR ALEXIS: Now, your knowledge about Ms Lazarus being paid not as an employee of the hospital from the hospital, but being paid from funds being provided externally to the hospital, did that come from Professor Hacker or did that come from Ms Lazarus or did it come from somewhere else?---As I, as I've just, as I've mentioned, I can't recall specifically what was said with, between Professor Hacker and myself while Sandra was in the room, but in terms of payment, it was, if I did have an understanding of an employee's status and payment it was confirmed by or it was, I suppose it was confirmed by her coming down and requesting her, her status or an employee number.

30

Mmm. Now, I know this letter at page 83 is addressed to you?---Ah hmm.

Are you sure you actually received it?---Am I sure I received it?

Yes?---Yes.

40

All right. Well, should we understand that when you read this letter, as you've said to us that you did, you would have worked out quickly enough that the letter was seeking to confirm a position of employment that didn't exist- - -?---Yes.

- - -within the hospital?---And that's what I, so when I did, the reason I recall this letter so vividly is that when I did read it I just went, I don't think so- - -

Righto---?- -in terms of her employment because as I say, my understanding of employment is a paid, paid position.

Yeah?---And there is, there was no way that we were going to pay for Sandra Lazarus in a position of research officer undertaking a clinical trial. The hospital just would not do that. We had no position to put her against, there was no funds for it in the general fund and we did not receive any money to go into an SPNT.

10

But the other point is this, isn't it. If you look at paragraph 11 of your statement, in the second sentence you tell us that there was no actual position available for her to occupy?---That's right.

And you then go on to say, "Since there was no vacant position advertised." Do you see that?---Yes.

20

And is the point you're making there that as a public hospital, the position would have to be, if there be a position, the position would have to be advertised publicly and the usual public service processes would have to be satisfied before the position was filled?---That's right.

And we didn't have any of that here, did we?---No. None whatsoever.

All right. So we have a variety of reasons which point unequivocally against the idea of Ms Lazarus being employed either as a principal hospital scientist with the hospital or in any other capacity?---That's right.

30

So what was your reaction to reading and understanding the purport of the letter?---So when I read the letter, I, as I said, I basically said, well, that's definitely not going to happen, and it has not happened.

Okay. Well, apart from saying that to yourself, did you do anything else? ---I actually explained that to Sandra when she came down.

40

Ah hmm?---She did come down and I said, I told her that there was no position and I could not put her or employ her. She came down a couple of times and then following that I had, she had no, I had no contact with her after that- - -

Ah hmm---?- -in relation to this matter.

So did you give the letter back to her?---No, I kept it as with, with me as a copy.

Ah hmm. Did you do anything else about the letter?---Ah, no.

What about speaking with Professor Hacker, did you have a word to him and say that you couldn't understand why he would sign a letter which confirmed employment that didn't exist?---I unfortunately didn't. And that's, I, I did think to speak to Professor Hacker about it but unfortunately with all the things that go on, it was one of the things that didn't- - -

THE COMMISSIONER: Do you sometimes get letters from Professor Hacker in the course of your work at the hospital?---Yes, I do sometimes.

10 And how does he address the letter?---In terms of the to someone or from?

Yes?---So he would address that personally to me.

And how would he call you, would he call you Ms Madunic or Vanessa or - - -?---Vanessa Madunic.

In the letter, he would write a letter saying, Dear Vanessa Madunic?---Oh, no, he'd write, "Dear Vanessa." Oh, no, I'm talking about the actual- - -

20 But that's what I'm trying to find out?---Yes. So he would, he would actually write, "Dear Ms Madunic", and then cross it out and put Vanessa. So- - -

That's the usual style?---That's the usual style.

Have you ever received a letter from him saying, "Dear Vanessa Madunic?"
---No. And I've never also received a letter from him stating, "To the
Human Resources Department", because I don't actually work in Human
Resources. So when, when I received the letter I, my first, well, my second
30 thought, after I don't think this is going to occur or I don't think this is the
right thing, I looked at it and went, oh, he most probably didn't write that,
he most probably signed it but didn't actually write the letter. There's too
much detail that Professor Hacker wouldn't know.

MR ALEXIS: Ms Madunic, my attention just, has just been drawn to
paragraph 21 of your second statement, and perhaps while dealing with the
subject of communications with Professor Hacker you ought to read
paragraph 21?---Ah hmm.

40 Now, should we understand that paragraph as confirming that you spoke
with Professor Hacker and told him that there was no position available
therefore Ms Lazarus could not be made an employee of the hospital?---
That's right and that, I did speak to him and that was, would have been the
day that he and I and Sandra were in the room together.

THE COMMISSIONER: The first occasion?---The first occasion.

MR ALEXIS: So this is the discussion during which he said to you to get her onto the books and it was in that conversation that what you tell us in paragraph 21 was discussed?---That's correct.

After that you get this letter at page 83 of Exhibit 1 and there was no communication as you recall it about the letter between you and Professor Hacker?---No.

10 All right. Now, I need to show you the original of this letter which is Exhibit 8 and Ms Madunic I'm doing so for the purpose of directing your attention to the handwritten note written across the top of that letter. Do you see that?---That's right, yes.

I'll just wait for the Commissioner to catch up.

THE COMMISSIONER: Thank you.

MR ALEXIS: And you see the note says something "spoke to Neville Hacker" and there's a date?---Yes.
20

Just with the benefit of the original, what's the date as best you can read it? 7 May.

2008?---2008, yes.

All right. And then there's a reference to Sandra being paid from grant through uni, do you see that?---I do.

30 And there's some initials there?---Ah hmm.

Can you assist in identifying, if you can, the persons with those initials that may have something to do with this note on this original letter?---I can't unfortunately. I don't know where the, that note came from so I don't, I can't assume who, who those signatures are.

But I think you told us you received the original letter, I asked you what you did with it and you said you put it in the file?---That's right.

40 So how should we understand the original letter has this handwritten note across the top with those initials?---I received a letter on gynaecological cancer letterhead without that, without that note on it.

And you're unable to shed any light on how the note came about and who's responsible for it?---No, unfortunately.

All right. Thank you. That can be returned.

THE COMMISSIONER: Did it remain in your possession?---The letter?

Mmm?---I have a copy, a photocopy of it with a range of photocopies so I don't, I can't, I don't actually have the original with me at the moment but I did see an original, original two and a half years ago, at least two and a half years ago now.

That's when you received it?---That's right.

So what happened to the original?---During the investigations in - - -

10

I see, when, when, when did, was it removed by ICAC inspectors?---I don't know if it was actually, I can't recall whether or not it was removed by ICAC or whether or not I handed it to Professor Walters whilst we were doing our preliminary investigations so I, I unfortunately can't tell you where it went but I know that I kept a copy of it along with other copies and the original unfortunately.

20

MR ALEXIS: All right. Now, given your understanding about Ms Lazarus potentially being paid, the detail of which you weren't aware of but nonetheless paid from funds coming into the hospital externally?---That's right.

Should we understand that she was neither a volunteer in an honorary, working in an honorary capacity or a paid employee of the hospital, she was perhaps in her own category in that sense, is that a fair description of things? ---Yes.

30

But is it the case for the Commissioner to understand that she was nonetheless treated administratively within the hospital as an employee because of the criminal record check and working with children check and other checks that were subsequently done?---Yes, because was on the premises of the, she was on the premises.

40

All right. I'll come to some detail concerning her but just dealing if I may briefly with her younger sister Jessica Lazarus, did any paperwork ever come across your desk at all concerning her potentially working at the hospital either as a volunteer working in an honorary capacity or as a paid employee of the hospital or in that particular category that we just described Ms Lazarus?---No, I do not recall Jessica Lazarus at all.

Now, in paragraph 40, pardon me, of your first statement, would you go to that please, you tell us that you had no knowledge that Jessica Lazarus was employed or engaged by the hospital to assist her sister with the clinical trials, do you see that?---That's right.

And should we understand you reference to employed or engaged to represent all of those categories that we've just gone through in terms of status of employee?---Yes, that's right.

All right. Now, in paragraph 6 of your second statement and I'm again just dealing with Jessica Lazarus, you tell us about the procedure for a student or researcher and I assume we can include there a volunteer or person working in an honorary capacity, obtaining a photo ID card - - -?---Ah hmm.

- - - from Campus Corporate Services Unit, do you see that?---Yes.

10 And you tell us there that your signature is ordinarily recognised by Security and Fire Safety Services and I think you said that in paragraph 7 and is it the case that you don't recall ever signing any such application for Jessica Lazarus?---That's right, I don't recall signing.

Now, the application form which can be presented to Campus Security and Fire Safety Services, is that a form that is available on the hospital Intranet system?---That's right.

Can it also be obtained from the security office?---Yes, it can.

20 And of course it can be obtained from your office?---That's right.

Now, without a signature from you on such an application form do you know of any way that someone can obtain an ID card and a security access card through the Campus Security and Fire Safety Services?---There are, apart from myself there are a number of other people that are able to actually sign those application forms. I deal with Allied Health and Medical. We do have a nursing workforce person who has authority to sign off on those forms and there may also be some department heads who may have the ability to sign off on those forms. Unfortunately I'm unaware of
30 who we actually have as people that are able to sign off from a security department perspective so I don't have their extensive list of who, whose signatures they actually recognise.

All right. Now, I just want to show you, again I'm dealing with Jessica Lazarus, Exhibit 64 that was tendered last Friday and, Ms Madunic, do you recognise the copy of the computer screen dump relating to Jessica Lazarus as coming from the security system at Campus Security and Fire Safety Services?---Yes, I do.

40 And just looking on the second of the two pages you'll see a photograph of Ms Lazarus and can I also just for clarity provide you with the original of her security access card and just looking at the original card and the photograph on the screen dump should we understand that the photograph is retained on the security server in relation to the issue details concerning the particular person holding the card, is that right?---That's right.

Now just coming back to the front page of Exhibit 64, do we see that the computer records two numbers relating to Jessica Lazarus, firstly the card number. Do you see that?---Yes, I do.

And we see that number printed on the original card that you've got in your hand there?---Yep.

And we also see employee number. Do you see that? 3-1-8-6-8-1-5?---Yes.

10 Now I think you mentioned to me earlier that an employee number is only given to someone who becomes a paid employee at the hospital?---That's right.

20 So if Ms Jessica Lazarus was never someone that achieved the status of an employee of the hospital and indeed a paid employee of the hospital, can you shed some light on how it is that she seems to have been allocated at least for security pass purposes, the employee number that we see on Exhibit 64?---The only, so this, this ID number if she's not a paid employee of the organisation, there is a section on the form which asks for employee number. If you have an employee number you enter that information into, in that field. If you don't have an employee number, people usually leave that blank. So in terms of her not having an employee number because she was not employed by the organisation, she may have used another type of number in, in that field or else the, and we don't usually have temporary numbers. But security at that stage may have issued a temporary employee number, which they don't usually do. But it's an, I suppose it's a temporary number, not necessarily an employee number.

30 THE COMMISSIONER: And what's the purpose of that?---That could be as a, a cross-matching in the system, so in their data, when you look at data fields, there may be a way of searching for that person so that, for instance, if you put ID in, into that data field, it will bring up that record.

So where would there be a record of the temporary employee number?---In security services. So it would not be part of the human resources system. It may be something that's temporary within the security department. But that doesn't have any links to an employee of the organisation.

40 And if it is an entirely made up number, a fictitious number that the person invented, would that simply go on to the form or would it be checked against something to make sure that it isn't a fictitious number?---No. There would be no checking of that number. It can be a fictitious number placed on the form. And the security department would enter that information in because that's what they have at hand.

What's the point of it?---Of the fictitious number or the number itself?

The number?---Well for an employee it's usually because it's an eight digit number, some of the employees forget their employee number so it's good to refer to your card.

10 Why do you need an employee number if anyone can just make up a number?---It legitimises your position within the organisation if you have an employee number. It tells us that we do, that you are employed with the organisation. A fictitious number, well that's, yeah, so it just, having an employee number for the purposes of a security pass. Unfortunately there are no links to the human resources system or to being an employee, but it is important to have an employee number, because you get paid by that, your information is there, you're validated.

But if somebody, if somebody wants to get a security card - - -?---Yes.

20 - - -illegally, when I, what I mean by illegally is by misrepresenting information?---Ah hmm. That's, unfortunately that is able to be done because there are no links to any system, to any HR systems. So the security staff will receive a call with completed information and they will, they will process that form based on that information.

Without doing a check as to whether that information is genuine?---That's right.

MR ALEXIS: Ms Madunic, the issue of a security photograph identification card assumes in favour of the applicant for the card a satisfactory criminal record check?---That's right.

30 It also assumes in their favour a satisfactory working with children check? ---That's right.

And it also assumes in favour of that person that they are actually an employee, that is to say a paid employee of the hospital doesn't it?---Not a paid, they can be a volunteer, they can be at the organisation on an honorary basis. They can be a medical student. They can be a nursing student. They can be anyone that requires contact with the organisation in a, in a working capacity. Not a paid capacity but a working capacity.

40 And does it follow that it assumes in the favour of the applicant for the card that that person has been through your office in terms of the proper employment arrangements being made? That's what this employee number would indicate to security wouldn't it?---That's right. The employee number would indicate that to security.

All right. So the people in security before they issue the card, how do they check to determine whether or not the application form that's before them has been authorised by you or someone with authority?---That's where the signature comes into play.

Sorry, what signature?---The signature at the bottom of the employee, the photo ID form.

And that's the signature that they normally recognise as your signature?
---That's right.

10 What about if someone else signs it, how do they know that they're authorised to sign that form?---They have a list of people who they're able to issue, so they have a list of names that are authorised to sign the form and who they can issue - - - -

THE COMMISSIONER: Are they able to verify the signature?---I, I've, I personally have never presented or provided them with a signature of my own to, so that they can verify so they have a list of signatures. But they certainly have a list of names.

20 MR ALEXIS: But you don't know whether they've got a register of specimen signatures - - -?---No.
- - - against which to check at least by comparison the signature on the form as authorising the prospective employee to get a card?---Yes, no, I don't know that because, and from my experience I've never provided one, a specimen signature.

30 Thank you. And just finally in relation to Exhibit 64. I think you've made this clear, but just so I've got it absolutely clear, you're telling the Commission that there's no information technology link between the employee number put on an application form for a security card and information within your department as to actual employee number and status of that employee?---So, that's right. And it's, it's actually broader than my department, so HR actually covers the whole area, the human resources system. So it's not specific to my department, but to a broader hospital and area system.

THE COMMISSIONER: So when a person, the form that we see, is that, that's based on an application form is it?---That's right.

40 Where all this information is set out?---That's right.

And that's handed to security?---That's right, by the individual usually.

And, and then the person in the security office reproduces that information on this form?---That's right.

And then issues the card?---Yes.

So the, the person at security takes at face value everything that's on the application form?---Yes.

Why is it called security?

MS FURNESS: I take it that's a rhetorical question.

THE COMMISSIONER: It was answered. The answer was good question.

10 MR ALEXIS: Now Ms Madunic, can I just pick away a little more at the process regarding the issue of security cards and paragraph 7 I think tells us what the usual procedure is?---That's right.

And in paragraph 10 you tell us I think that you recall signing the form for Ms Sandra Lazarus at about April, 2010. Is that right?---Yes.

20 Yes. It's paragraph 13 of your second statement, if I could go to that, please. After the paragraph dealing with Ms Jessica Lazarus, paragraph 12 where you say you didn't sign any form, you then in paragraph 13 tell us about the criminal record check and the working with children checks that are done prior to photo identification and access being issued. Do you see that?---Yes, I do.

Now, is it the case that those checks cannot be done unless the applicant for the card signs a form allowing it to happen?---So signs the form for the criminal record check to be undertaken?

And, and the, and the working with children?---That's right.

30 Yeah?---It's the individual that completes those forms.

All right. Now, if that documentation for Sandra Lazarus was signed in April, and I'll come to the forms in a minute, is there usually some delay between the completion of those forms and the ultimate issue of an ID card while those checks are being undertaken?---There can be, depending on when the criminal record check is actually returned.

40 Mmm. And insofar as the security office is concerned, they don't become privy to the result of those checks. Is that so?---That's right.

They rely therefore on the authority and the authenticity of the signature on the application form?---That's right.

And what carries with that signature is a satisfactory check in relation to criminal record and working with children. Is that so?---Yes.

You get that information, they don't. That's the position?---That's right, we get the information.

And then after the issue of the card is it the case that the relevant forms are not retained? We see that in paragraph 15 and 16 of your first statement. Is that so? Your second statement, I'm sorry?---Yes, campus security destroy those forms.

After the security card is issued?---That's right.

10 Now, in paragraph 18 you say, "From inquiries I have made, I have determined that the criminal record and working with children checks were conducted on 8 April, 2008." Do you see that?---Yes.

Now, can you tell me what the basis of that statement is, please? And I'm asking because you've selected a fairly specific date, 8 April?---Yes, yes. We received a copy of the criminal record check and that's where I noted, when I noted the date that the criminal record check was cleared.

20 All right. I'm going to take you in a moment to the form that facilitated those checks and I'm going to draw attention to the date on those forms?
---Ah hmm.

And can I tell you that it post dates 8 April?---Yes, I do. I am aware of that.

Well, let me just understand the basis upon which you say it's 8 April. And could you look at page 25 of Exhibit 1. Now, apart from noting the name across the top of this form, Ella Crowley, just happens to have the initials EC which was one of those initials on the top of that original letter?---Yes.

30 MS FURNESS: Might I just indicate, Commissioner, that I told counsel assisting mid-last week that I had identified EC to be Ella Crowley. He may well have forgotten but- - -

MR ALEXIS: I think I had actually.

MS FURNESS: - - -there has been no secret as to who EC was for some many days now.

40 MR ALEXIS: All right. Well, Commissioner, that comment's noted and as always, counsel's assistance is appreciated. But, Ms Madunic, looking at page 25- - -?---Ah hmm.

- - -we see in the second box working from the bottom up, "Overall Status - cleared." Do you see that?---Yes.

And if we work a few boxes up you'll come to one entitled, "Date Entered." Do you see that?---That's right.

And it's got 8 April, which is the date you refer to in paragraph 18 of your statement?---Yes.

So what should we understand this record to be telling us in relation to Ms Lazarus' status at the Royal Hospital for Women? And the point of that question is of course the reference to St Vincent's Hospital halfway through that box?---Yes. Okay. In terms of criminal record checks, the Department of Health requires that a criminal record check is undertaken on all staff, volunteers, researchers, et cetera, et cetera, who access the facilities, be that
10 the Royal Hospital for Women, St Vincent's, et cetera. It's a centralised database so that when an individual's information is entered into the criminal record check system, if they've had a criminal record check undertaken recently within a hospital, not necessarily the Royal Hospital for Women, but any hospital within the area- - -

Ah hmm---?- - -that criminal record check is considered valid.

Right. So if, so obviously Sandra Lazarus had completed the same set of forms that she would have completed at the Royal Hospital for Women.
20 They entered that information into the system and she came back with a cleared status. We then asked Sandra to complete the same set of forms, following this date, I think it was, or roughly around the same date or just after, and those, that information would have been entered into the criminal record check system by the Human Resources Staff, be that, and in this instance it is Ella Crowley, she's part of, or was part of the Human Resources Department. And on entering the information from the Royal Hospital for Women it was noted that there was a cleared criminal record check and that's what we go by.

30 Right?---We provide, we allow 12 months. So if you've had a criminal record check done at any hospital within a period of 12 months, that criminal record check is valid. If it extends past the 12 months, then we would re-enter the data submitted or HR would enter that data and submit it to have a more up-to-date criminal record status.

All right. So just drawing some threads together from what you've just told us, should we understand that when the information was entered into the computer system, you were able to ascertain that a criminal check and, sorry, a criminal record check and a working with children check had
40 already been done in relation to Sandra Lazarus in connection with St Vincent's hospital?---That's right.

And that occurred on 8 April, that is the check by St Vincent's Hospital, on 8 April?---Yes.

Which leads to the overall status being denoted there as clear?---Yes.

And you were able to access that information because St Vincent's is within the South Eastern Sydney and Illawarra Area Health Service, to which the Royal Hospital for Women is as well?---Was as well, yeah.

Was as well. Thank you. And because of the recency of that check, in effect that was good enough for your purposes in terms of not needing to conduct a second check. Is that how we should understand it?---That's right.

10 All right?---That's policy.

Thank you. So does that then explain and perhaps save us a series of questions which seeks to understand why all the relevant forms that facilitated Ms Lazarus having criminal checks done and working with children checks done all post-dating 8 April?---That's right.

She signed the forms after the check had already been done in connection with St Vincent's?---That's right.

20 All right. Now, does it follow that the date upon which she was denoted as having cleared status in connection with St Vincent's, tell us anything about the likely date upon which her security access card was issued?---We would have received a cleared status from Human Resources and based on that we would have issued, I would have signed and completed the form.

Yeah.

30 THE COMMISSIONER: On what date?---It would have been following receipt. I can't tell you unfortunately what date because I don't recall it precisely, but it would have been following receipt of a cleared status.

MR ALEXIS: Can I try and just helpfully step you through some, some dates and if you just open Exhibit 1 please and perhaps we ought to start at page 13 and we'll just move through them very quickly but at page 12 we've got a new employee personal details form, do you see that?---Yes.

And on the bottom of page 13 that seems to have been signed by Ms Lazarus on 10 April?---Yes.

40 And then on page 14 there's a document that appears to be a form of agreement that Ms Lazarus was entering into with the Southern Eastern Sydney Illawarra Health Service, do you see that?---Yes, this is a health agreement so basically it is expected that all staff will have a level of immunisation.

All right. And again that seems to have been signed on 10 April?---Yes.

And then if we come through to page 18 of Exhibit 1 the declaration for staff, volunteers and contractors which refers in terms to a code of conduct again seems to have been dated on 10 April, is that so?---Yes.

And were these forms that you provided to her and she signed either with you in connection with you?---Yes (not transcribable)

10 And then at page 19 there's the approval to conduct criminal record check and that's the form I referred earlier which facilitates that check, is that so?
---That's right.

And again that seems to have been dated 10 April at the foot of the page, page 19?---Yes.

And then page 20, you see the reference to Maria Combis, administrative assistant at the foot of that page?---Yes.

17 April, 2008?---Yes.

20 And what does that date indicate in terms of the points score check referred to above?---So those, the forms that you've just noted prior to page 20 were completed by Sandra herself. On this, on page 20 the admin assistant, Maria Combis, would have, so Sandra would have come down to the, the office, Maria would have actually then completed this form where she took copies of the various, the various ID required to complete the criminal record check form so that would have happened on the 17th.

30 All right. And then can I just finish the dates, page 21 seems to be a further document signed by Ms Lazarus on 10 April?---Yes.

Do you see that? And then at 22 is the working with children consent form, do you see that?---That's right, yes.

And that seems to have been signed also on 10 April, 2008?---Yes.

And then on page 24 we seem to have copies of the various cards no doubt used in relation to the identification check?---That's right.

40 Now, having regard to what you've told us about the fact of an earlier check in connection with St Vincent's and having looked at the dates, particularly the date adjacent to Ms Combis' signature at page 20 of 17 April, what can you tell us about when it was that you would have signed the form concerning the security ID pass?---It would have been after the 17th.

All right. And beyond that absent the form that I showed you in relation to Jessica with the employee number and those details, I take it you're unable to say when in fact the security card was issued?---That's right.

All right. Now, having gone through the employment type forms can I revisit the subject of that letter at page 83, just so that we can try and get the timing of things as clear as we possibly can?---Yes.

Now, you've told us about the conversation with Professor Hacker and his request to get Ms Lazarus on the books, do you recall that?---Yes.

10 You've told us about the circumstances of the receipt of this letter and you particularly have told us that it was either provided to you directly by Ms Lazarus or it came via your secretary from her?---Yes.

When we look at the dates, namely 10 April on all the employment forms, what does that tell you or how does that assist you in recalling to mind when it was that the initial conversation with Professor Hacker occurred, the one about getting her onto the books?---So it would have, it would have occurred prior to 10 April.

20 Right. And after 10 April perhaps in the context of these forms you had those further conversations with Ms Lazarus that you've spoken about? ---Yes.

And then it was subsequent to that that you got the letter at page 83? ---That's right.

If it be the case that Ms Lazarus was to be employed in some capacity, be it a principal hospital scientist or some other capacity, would you expect to see some reference to that position in at least one of these employment forms? ---Not necessarily.

30 Why is that?---Because these are actually completed, so we're talking about the pages from 12 to 20?

Yeah, yes?---No, because they're filled in by the, the person, the individual. When we sign on someone it's usually the manager that completes the form which indicates what they would be employed as so Sandra's actually, all of the forms that you actually see in front of you are, don't relate to a specific position or ability to undertake the specific position.

40 THE COMMISSIONER: If you look at page 19, you'll see in the middle of page, position title - - -?---Title.

- - - job title?---Yes. So that - - -

It looks like principal hospital clinical researcher?---Yes. That would have been completed by Sandra not by myself and in terms of the processing of these forms that would have just been a general assumption that Sandra had made but if we were to have actually employed her there would be a set of forms that I would need to complete with the appropriate award

classification, award name, how much she's going to be paid et cetera so in terms of position title, job title, that could have been left blank. She was obviously coming into the organisation as a researcher, that was the pretext that she was coming in under and that's what she's obviously written not that we told her to write that, that was something that she - - -

She volunteered?---She volunteered to put down, yes.

10 MR ALEXIS: But it would have been completed when the form was received for processing, wouldn't it?---No, not necessarily. So I would not have, so in terms of approval for a criminal record check the position title, job title would not have been completed by me in that, in, for it to be processed.

So what you're telling us is that the criminal record check would be undertaken without necessarily there being any details on the form concerning the proposed job title or job description - - -?---That's right.

20 - - - or work area?---The work area would certainly be on there because we, the person that was completing the form would know what department they were working in so that one's a fairly obvious one. Position title, job title could have been left blank if it's a volunteer or if it's a medical student they could put down that they're a medical student but it can be, it can be left blank for it to be processed.

30 All right. Well, if the work area is normally completed when the form is completed and submitted because it's relevant to the check then it's likely isn't it that the position title, job title would have similarly been completed on page 19 when it was signed?---Yes, but that would have been completed by the individual not by, by me.

But whether that's so or not, the form completed is received - - -?---Yes.

40 - - - and presumably checked before it's processed?---The, the form is checked to ensure that there are signatures and that's it's completed as accurately as possible and the ID. The ID is what we actually look at in, in terms of the forms. The forms will be submitted, for instance if we didn't know that Sandra had, and I'm just using Sandra as an example here, that Sandra had a different first name, because you actually need to indicate whether or not you've had previous names, the individual completes that. So what I'm trying to get at is that the individual completes this. We make sure that it's signed. We send it off. We don't actually enter in any data ourselves.

But Ms Madunic, I'm sorry to keep picking away at this, but you told us in relation to the letter at 83 - - -?---Ah hmm.

- - - that you reaction to getting the letter was to say to yourself that's not going to happen?---Ah hmm.

10 So what should we understand the position to be in relation to the receipt of this authorisation for a criminal record check which identifies in terms the proposed position signed by the applicant on 10 April, 2007?---So in terms of the position title, job title, on this form, so if I'm going to look back at page 83, she was not going to be employed, employed as in paid employed, paid employment, as a principle hospital scientist, principle scientific officer. On her criminal record check, she's coming in as an alleged clinical researcher. Her position title, job title, she's put down principle hospital clinical researcher, is a valid, that's what she was coming in as, or that's what we assumed her doing.

THE COMMISSIONER: Do I understand you correctly to be saying that if someone puts in principle hospital clinical researcher, that could readily be an honorary position - - -?---That's right.

20 - - - and not be paid and not be regarded as being employed?---That's right.

So when you saw that it would not ring any bells?---No, it would not ring any bells.

All right.

30 MR ALEXIS: Now can I come to some detail concerning Ms Lazarus' status as a university student. And you tell us I think about that in paragraph 19 of your second statement. And in that regard I think you relied on what you say there is the reputation of the gynaecological department and the seniority of Professor Hacker. Do you see that?---Yes.

40 Is that effectively saying to us that it was a matter that you left to him?---In terms of her university status and her being a researcher, yes, that would, that I would and I did leave to Professor Hacker, because that's his, he would have had contact with her first, which he did. And he would have undertaken or spoken to her about what she's doing, the research, what her links are with the university. What we undertook was the criminal record check and that's from an organisational perspective. What we see is important and in terms of, and that's in terms of checking. If we were to have employed her as in a paid capacity or if it was an employee, we would have undertaken, as in if it was my responsibility to employ the individual I would have undertaken reference checks prior to employing the individual and undertaken a number of different, different checks before we actually, such as an interview et cetera, before we actually employed the, the individual. As this was a researcher, in terms of clinical research and Professor Hacker did have the first contact with her, the actual university status or the student status is left up to the, to that person, the person that they're working with. So if any other medical student, and there are a

number of them, who are undertaking research or clinical trials or research per say, and they are linked in with a professor of the organisation, it would not be my, I would not be undertaking a criminal, a reference check or a, a check with the university to see what their status is.

Why not?---Because that, because there is the, because it should actually be the clinician who undertakes, be that any clinician who undertakes that. And usually there is an association with the university and the professor or the doctor. So there's some understanding there.

10

Now in your, in your answer, the one before last, you referred I think a couple of times to Professor Hacker would have done this and he would have done that and should we understand that really the true position is that an assumption was made that by reason of Professor Hacker's connections with the university those were things that he would have checked?---It's an assumption, yes.

And the fact of the matter is you don't know whether he did or not?---No, I don't know.

20

And you don't know whether her status with the University of Sydney as a student was checked or not?---I don't, I don't know.

And you don't know whether or not she was in fact enrolled as a PhD student with that university?---That's right, I don't know.

30

Is it the case that the particular experience that your organisation has had with Ms Lazarus has led to some consideration about the need for some more stringent checks being made before a university student is allowed to come literally through the door?---Yes. I, I think, and this is, yes, the checks need to be made. I think this actually, this is an unfortunate situation because we do rely on a lot of trust (not transcribable) where students who are very well meaning who want to undertake research, and this is just added to a level of complexity that we previously would not have seen in health. But I think, even today I had someone, a legitimate person coming in to undertake an observership in some clinics and the level of questioning that I actually used today was a lot more than I would previously use. Which is unfortunate in, in this environment.

40

Can you think of any reason why another form could be added to the batch of forms, perhaps in company with the criminal record check the working with children check, which is a form of authority which enables you to communicate with the university to check on the status of the student? ---Yes, we, that, there's many way in which we can do it. A form is one way. And we can certainly look at implementing something along those lines.

All right. A few more topics if I may. Now could I ask you to go to page 95 of the examination bundle, please, Exhibit 1. And if we can go back to your first statement, paragraph 14, where I think you deal with this letter. Now how did you come to be made aware of this letter?---I was, I was shown, I was actually given a copy of this letter.

By who?---I can't recall unfortunately. But I do recall - - -

10 THE COMMISSIONER: When?---And when, I can't recall unfortunately.

Was it before or after the ICAC investigation?---Before the ICAC investigation.

MR ALEXIS: Just look at paragraph 14 about four lines up from the bottom of page 6. And do you see what you say there about - - -?---Yes, I do.

20 - - - who provided you with the letter? Is there, is there any doubt about that and if there is please say so, so we understand your position?---Yep. Okay. No, there's no doubt, I did actually see it by Sandra. I, sorry, I retract my previous words.

Could I just ask you to take a moment- - -?---Mmm.

- - -to read paragraph 14, because we need to be clear about not so much the receipt of the letter, but discussions around the letter. Do you follow, so just read paragraph 14 to yourself and let us know when you've done so.

30 THE COMMISSIONER: We just need to know what you accurately remember. There's no pressure on you, Ms Madunic, we just need to know what you remember. It's important?---Yep. Okay. Thank you.

MR ALEXIS: All right. So just returning to the subject. You received a copy of this letter?---I did.

And is your recollection that you received it from Ms Lazarus?---Yes.

40 Now, was there a conversation with Ms Lazarus at or about the time of providing this letter to you about the subject of funding?---Yes.

And can you tell us what was said, please, as best you recall?---As best I recall I was told that this was money that was going to come to the organisation and that there was a possibility of further moneys coming to the organisation if things progressed. And I actually recall an amount of about 200 or \$250,000 for that.

THE COMMISSIONER: Sorry, that was, is that a total or would come after the \$75,000 mentioned in the letter?---That was a total.

MR ALEXIS: Now, Ms Madunic, if you could listen to this question very carefully?---Ah hmm.

When you had the conversation with Ms Lazarus around this letter- - ?
---Ah hmm.

- - -was anything said about moneys having already been deposited with the hospital?---Not at, not at this time that money had been deposited, no

10

When you answered my question about what was said, you told me that she indicated to you that money was to be deposited into the hospital?---That's, that's right.

So is the position that at the time of this conversation arrangements were being discussed about moneys to be received and didn't relate to moneys or any moneys that had been received. Is that so?---That's right.

20

THE COMMISSIONER: All right. Would you know whether moneys, would you know independently whether money had been received or not? Is that not something that you would know about?---Usually if money is received I, from our performance meetings and from looking at our budgets, yes, I would know that moneys were received, because I do look at, I do look at that.

30

MR ALEXIS: Now, to this point in time, had you received any request to open up or create a special purpose trust account?---No. I had had discussions about how to go about depositing money or where to deposit the money.

Discussions with who?---With Sandra. So as noted there, the money would have to be deposited into an SPNT.

Ah hmm?---And that was basically the extent of my involvement there.

All right. So up to the point of this conversation, no SPNT had been opened- - ?---No.

40

- - -for this particular matter?---That's right.

And at what point, having received the letter and being told about there was to be money coming, at what point in time in the process would such an account be opened for the purpose of receiving that money?---In most instances we would receive, so if it was coming from an external source we would wait for a cheque to be presented and then we would look at opening up an SPNT.

All right. Now, do you recall anything said during this conversation about money, just leave aside the amount for the moment, but about money being deposited into something called the Go Research Fund?---No.

Any conversation with Ms Lazarus about a deposit of money, leave aside how much, with the Royal Hospital for Women Foundation?---No.

10 All right. Now, in paragraph 13 on the same page of your statement, page 6, the very last sentence, you tell us that you do not recall ever being requested to set up a trust account for the research project. Do you see that?---That's right.

And should we understand that you would have expected to have been receiving of such a request if a cheque had arrived which was to be deposited into an SPNT, as you've called it, a special purpose trust fund? ---Yes.

20 So that's the point in time at which the account would physically be opened as an account within the hospital set of accounts. Is that so?---For moneys coming from an external source?

Yes?---It's the usual practice that we wait to receive the money.

30 Ah hmm. And if we just can step through the procedure, which you helpfully tell us in paragraph 15 of your statement on page 7. Should we understand from what you've said there that the first step is to receive a form? Do you see in about the fourth line you speak of the SPNT form stating a title, a reason for which the money is required, where the money is coming from and who has the delegation to administer the trust fund?---Yes.

So upon receipt of the cheque, a form such as the one you describe there is completed?---Yes.

And then you go on in that paragraph to say that to establish the trust fund money is required in the fund to be deposited through either a donation or a grant provided. So until the money is received the form doesn't go anywhere. Is that so?---That's pretty much right, yes.

40 All right?---Or that's right.

Now, after you receive the letter at page 95 and after having the conversation with Ms Lazarus about funds being received, what happened in relation to the subject of the receipt of funds, the opening of a special purpose trust account at the hospital?---Nothing happened.

Ah hmm. And now did you ever communicate or have occasion to communicate with Mr Neiron, the person who signed the letter at page 95? ---Never.

And did you ever speak with or have occasion to communicate with anyone from a company involved in the Medex device?---No.

Now, if funds had been received and if a special purpose trust account had been created, is the process to use those funds for the purpose no doubt outlined on the form creating the fund, set out in paragraph 16 where we see reference to requisition forms and- -?---Yes.

10 Being used by the people of appropriate delegation utilise those funds?
---Yes.

And you're in no position I gather to indicate whether or not any requisition forms were ever received to access funds in a trust fund because none was created. Is that the position?---That's right.

All right. Now, can I come to the two letters that we know have been signed by a Mr Ratnam. Are you familiar with those letters at page 93 and 94 of Exhibit 1?---Yes. Oh, well, yes.

20

Now, I just want to ask you a question about the letter at page 94 and particularly the last paragraph where Mr Ratnam is directing the recipient of the letter to quote the following reference number when transferring funds, 1-5-2-1-0-7. Do you see that?---Yes.

Now, can you, do you have any knowledge as to what that reference number related to in May 2008?---That's a Royal Hospital for Women cost centre number. I can't actually recall what cost centre it relates to but the reason I know it's a RHW number is the 1-5-2. That's the prefix that we use to
30 identify our hospital so all our cost centre numbers, our general fund cost centre numbers, commence with 1-5-2.

All right. But the remaining three numerals, the 1-0-7, can you help us with what that relates to?---I can't, I can't recall but I can certainly, I do have a listing of all the cost centre numbers and would be able to refer to that listing but I just don't recall it at the moment.

But do you know if the number ending 1-0-7 is connected in any way with a special purpose trust account?---All special purpose trust accounts, actually
40 the numbers, so 1-5-2 relates to general fund, special purposes and trust accounts commence with 1-9-0, 1-9-8 so this is actually not an SP and T number.

Right. So are you aware as to whether a special purpose trust fund was in fact established with number 1-5-2-1-0-7 entitled "cervical cancer early detection"?---That's actually an old cost centre number and would not, I, I don't recall that number being created for the purposes of Sandra, Sandra's study or for this, for the clinical trial, I won't say Sandra's study, I'll, for the

clinical trial. That number 1-5-2-1-0-7 was not, from my recollection was not established for Sandra's, for the clinical trial.

Well, we know you didn't establish it because you've told us but who else in the organisation in the first half or thereabouts of 2008 could have been involved in creating SP and T?---So this is actually not an SP and T number, this is a general fund number so SP and T, if we were to, an SP and T were to be establish it would commence with a number 1-9, 1-9-0 or 8 depending on the sequence. This is an actual general fund number and the people that
10 would have been involved in establishing that number, it could have been generated from the department so from the gynae-oncology department, that request, a form would have required to have been completed, that form would have then gone to the finance department and very similar to the way that an SP and T's set up the general fund number could have been set up.

THE COMMISSIONER: I take it that by a general fund you're talking about the hospital's own fund?---That's right, the actual hospital's account.

MR ALEXIS: Now, Ms Madunic, are you aware at all of any agreement
20 being entered into between the hospital and Sydvet, that's the company referred to in that letter at page 95 I took you to, in relation to the conduct of any clinical trial using the Medex device at the hospital?---I don't, I don't recall any agreement?---And were you ever aware of any written agreement entered into involving the provision of marketing services with respect to the conduct of any clinical trial at the hospital?---There was, I don't recall any agreement.

Now, can I turn to the subject of vendor maintenance forms and ask you to
30 look at page 104 and 105 of Exhibit 1?---Yes.

And in paragraph 33 and following of your first statement you tell us about the processing of these forms and there's just one aspect I wish to take up with you?---Ah hmm.

Are you aware of whether any check is made at the point in time where the detail of the vendor is entered into the system to correlate the name of the vendor and the Australian business number of the vendor as disclosed on the vendor maintenance form?---I'm unaware of any check.

40 Thank you. Now, in relation to the requisition book, in paragraph 19 of your first statement you tell us that each department has its own requisition book?---Ah hmm.

And in paragraph 21 you tell us that ordinarily that that book when completed should come down to be signed off by Professor Walters?
---That's right.

Are you yourself involved in the process of having Professor Walters check off and sign requisitions and have them processed?---Yes.

And you see in paragraph 21 you tell us that the safeguard in place at area level is that they should ensure all signatures were on the requisition form prior to being processed?---That's right.

10 Can you tell us what that safeguard actually was in terms of checking the signatures?----So what they, for each, for each organisation there's a person who is authorised to sign off on requisitions and Professor Walters was the only delegate from our organisation that was able to sign off to authorise payment and what I believe the process was was that the staff processing the requisition needed to ensure that the signature on the, as the authorising person was Professor Walters.

So on that basis if the form apparently had Professor Walters' signature as authorising officer it'd be processed?---Yes.

20 But if it didn't apparently have Professor Walters as the authorising officer then it shouldn't have been processed?---That's right.

Now, I used in those two questions apparently how does one doing the check actually check to see that the signature apparently Professor Walters is in fact his signature and of course we're talking about 2008, I know things have changed since then?---Certainly things have changed and the, and the process that I believed occurred then and, should have been that they should have checked the signature, also Professor Walters has a stamp that he places at the bottom of the requisition books.

30 But how would they check the signature?---They, I, from what I believe they have a specimen signature.

All right. And his practice was to use a stamp, was it?---Yes, to indicate his delegation in the organisation.

40 Now, you tell us in paragraph 22 that Associate Professor Donald Marsden didn't have any authority or delegation to approve the requisitions and in that context you express, I gather, some disbelief as to how it could be that the requisition could have been processed with Dr Marsden apparently being the authorising officer when clearly he wasn't so authorised?---That's right.

Now, have you been able to understand how in fact the requisitions were processed in those circumstances?---I suppose I, I don't quite understand the question.

Well, let me put it again. You expressed disbelief in paragraph 22 as to how the requisitions were processed when on any view Professor Walters' signature was not on them?---Yes.

And you know the five requisitions I'm speaking of?---I do.

10 Right. Have you been able to ascertain how it was that those requisitions nonetheless were processed when Professor Walters' signature was clearly enough not on them?---I, I don't know how they were processed and I think many, many people within the system don't know how they were processed because, particularly in our department we are very aware of the situation where if there isn't the appropriate signature, so if Professor Walters' signature isn't on the requisition we usually get the requisitions back and, with a stamp on it or with a note on it saying please approve appropriately and we'll process so there was certainly a flaw in the system.

20 All right. Now can I come to something of interest in paragraph 23 of your statement in which you tell us that you regarded it appropriate that Ms Lazarus sign off as requesting officer even though she was not an employee. Do you see that?---Yes.

30 Now apart from drawing attention to perhaps the obvious, namely she couldn't be a requesting officer if she wasn't an officer of the hospital, why, why is it that a volunteer, honorary student in the circumstances that we've discussed in terms of her status as an employee would ordinarily be permitted to sign off a requisition even as a requesting officer?---I, I would not necessarily approve of a person doing that, but in terms of a volunteer or anything along those lines, but the book was there, the book, it's a, it was a manual system, you have the book, the order was obviously raised by Sandra. So she signed it off as the requesting, as she generated, obviously generated the expenditure, she signed it off as the requesting officer. You have the checks and balances after that, so you have the director of or the head of the department as the delegated officer confirming that expenditure and then you have the authorising officer. Now, that's basically the only reason I say that, because it is a manual system. She did it obviously fill out the form. The secretary, the secretary could have actually signed it on her behalf rather than Sandra doing it. But there are the checks and balances after that. So it's not as if Sandra was the only person signing off on that expenditure. There was the director of the unit and then the authorising person. So that's why I've put down that she could have signed off the 40 requisition as a requesting officer.

So are you saying that not inappropriate for her to sign as requesting officer because of the checks and balances concerning the delegating officer and ultimately - - -?---That's right.

- - - Professor Walters as the authorising officer?---It's not an ideal situation, but if you look at it the secretary could have signed off on the

expenditure that Sandra incurred and then Professor Hacker or whoever it may be, the department head would have signed it off (not transcribable) requesting officer.

What about a scenario that suggests that the requesting officer is for all intents and purposes the vendor seeking to have the requisition and the underlying invoice facilitated for payment?---Yes.

10 Now would that cause you to change your view about whether it's appropriate in those circumstances for the requesting officer to sign off as the effective person behind the vendor?---If they were the vendor, it makes, because there are still the checks and balances, allegedly there are the checks and balances, and I don't know whether or not anyone knew that she was the vendor, that certainly she was the vendor, then it is inappropriate for her have completed those, signed off as the requesting officer.

20 So you'd expect that the delegation officer at signing stage or the authorising officer signing stage, any conflict arising out of - - -?---Would have - - -

- - - requesting officer and vendor effectively being one and the same would have been identified and dealt with?---And dealt with.

And do you have any knowledge as to whether in 2008, you knew that Mr Lazarus had something to do with the various companies in respect of which these requisitions were prepared for?---I didn't have any knowledge of her having anything to do with them.

30 Now paragraph 31 of your first statement I need to deal with because I'm not sure what it means. In paragraph 31 you tell us that you attempted to contact the company, Sydvet - - -?---Ah hmm.

- - - on an interstate telephone number. And I gather that was the number apparent from that letter that I took you to at 95?---Yes.

You might just want to look at 95 because it's not apparent to me that the letter identifies an interstate telephone number?---I, okay, so you're wanting to know whether or not I did contact them and to verify that?

40 No, look Ms Madunic, I'm not drawing attention to the fact that the letter on it's face doesn't indicate a number. What I'm more interested in is why you made an attempt to contact Sydvet as you tell us that you did in paragraph 31 of your statement?---The reason why I attempted to contact Sydvet was basically to recoup some of the money that was expended from our general fund.

I see. And so when should we understand that attempt was made?---That attempt would have been made following notification which would have

been about that certain amount of money was taken, was paid to, to, and I can't recall who it was paid to, but it was in relation to, it would have been about September when we, when we actually noted it in the performance management papers.

Right. And did Mr Ratnam have something to do with that subject matter coming to your attention?---Yes. And also my own investigations.

10 THE COMMISSIONER: But you're talking about 2008 of course?---Yes.

MR ALEXIS: Yeah. Now, the last sentence of 31 tells us that as a result of this conversation in the preceding sentence, you make reference to an attempt to contact the company Medex?---Ah hmm.

And you were able to speak to someone?---Yes.

All right. Can you recall who that was?---No, I can't unfortunately.

20 And you then say as a result of a conversation, Medex provided the hospital with a bank cheque?---That's right. Can I just state that in terms of the actual companies, I can't recall specifically whether or not it was Medex, but I had some documentation in front of me of various companies that were supposedly part of the clinical trial and I just contacted numbers on those pieces of paper and I eventually got through to someone and we were provided with an \$80,000 bank cheque.

30 Mmm. Now, were the people on your list that you spoke to inclusive of Sandra Lazarus?---Yes, I did attempt to contact Sandra on a number of occasions.

And can you recall to mind approximately when that was?---That would have been in, after September.

THE COMMISSIONER: And before you received the money?---Yes, before we received the money. I think we received some money- - -

40 MR ALEXIS: Now, do you recall after you had the conversation with Sandra Lazarus speaking with Mr Ratnam and telling him what she had conveyed to you during that conversation?---I don't recall speaking to Mr Ratnam.

All right. In any event, can you tell us, please, what was discussed during this conversation with Ms Lazarus?---Over the telephone?

Yes?---I didn't actually get in contact with, I didn't speak to Ms Lazarus in relation to, hold on, I've just got to regain my thoughts again. Sorry.

That's all right. Well, perhaps we could do it this way, Ms Madunic?

---Yeah.

I'm going to show you a string of emails which have come into evidence in this inquiry via Mr Ratnam's statement. Okay?---Okay.

And what I'd ask you to do is to look at the email from Mr Ratnam to Professor Hacker - - -?---Yes.

10 - - - dated 3 October, 2008 and what I'm particularly wishing to draw your attention to is the second last paragraph of that email, if I can show you that please.

THE COMMISSIONER: Sometime, some very near time in the future I need to adjourn.

MR ALEXIS: Yes, oh, yes. I do apologise, Commissioner. We can adjourn now, Commissioner.

20 THE COMMISSIONER: All right. We'll adjourn now 'til 2.15.

MR ALEXIS: Thank you, Commissioner.

LUNCHEON ADJOURNMENT

[12.50pm]