

Our reference: 35640/15



ASIC

Australian Securities & Investments Commission

22 October 2015

Mr Phillip Sweeney

By email: [foi+request-1236-ca0441b1@righttoknow.org.au](mailto:foi+request-1236-ca0441b1@righttoknow.org.au)

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Dear Mr Sweeney

**Request under the *Freedom of Information Act 1982*  
for access to documents**

I refer to your request under the *Freedom of Information Act 1982* (FOI Act), received by ASIC on 22 September 2015, for access to the following:

*" ... copies of any correspondence including attachments sent to Victoria Police to assist the Police in a matter that relates to the Elders IXL Superannuation Fund and access to the Deeds of this Fund. This fund was more recently known as the AusBev Superannuation Fund".*

You advised that the search period is from 1 August 2015.

I have interpreted your request to be for access to documents that were sent by ASIC to Victoria Police in relation to a superannuation fund that you have identified as the Elders IXL Superannuation Fund.

I am an authorised decision-maker for the purposes of section 23 of the FOI Act.

**Decision**

I advise that your request is refused under section 24A of the FOI Act, as the documents you have requested as described above do not exist.

I advise that our searches of ASIC's databases did not turn up any documents that were sent by ASIC to Victoria Police in respect of the matter you outlined, and therefore there are no documents that fall within the scope of your request.

**Section 24A – Requests may be refused if documents cannot be found, do not exist or have not been received**

Section 24A of the FOI Act provides that requests may be refused if documents cannot be found, do not exist or have not been received.

Section 24A states:

- (1) An agency or Minister may refuse a request for access to a document if:

- (a) All reasonable steps have been taken to find the document; and
- (b) the agency or Minister is satisfied that the document:

- (i) is in the agency's or Minister's possession but cannot be found;  
or
- (ii) does not exist.

### **Review Rights**

I provide you with the following information as required by section 26 of the FOI Act. If you are dissatisfied with the decision:

1. You may, within 30 days after the day on which you have been notified of this decision, apply in writing to ASIC for a review of my decision by another ASIC officer under section 54B of the FOI Act. This request should be addressed to me or to the Senior Manager, Administrative Law GPO Box 9827 MELBOURNE VIC 3001 or by email to [foirequest@asic.gov.au](mailto:foirequest@asic.gov.au).
2. You may apply in writing to the Australian Information Commissioner for a review of my decision under section 54N of the FOI Act. Correspondence should be addressed to the Office of the Australian Information Commissioner at: GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.
3. You may lodge a complaint to the Australian Information Commissioner in respect to the conduct of ASIC in the handling of this request. Correspondence should be addressed to the Office of the Australian Information Commissioner at: GPO Box 2999 Canberra ACT 2601 OR GPO Box 5218 Sydney NSW 2001.

If you have any questions in relation to this letter please contact me on 03 9280 4638 or email [lauren.roy@asic.gov.au](mailto:lauren.roy@asic.gov.au). If you wish to discuss your ASIC's consideration of your report of misconduct, we would encourage you to contact the original analyst directly.

Yours sincerely



**Lauren Roy**  
**(Authorised decision-maker under subsection 23(1) of the FOI Act)**  
**For the Australian Securities and Investments Commission**