



**Fw: Freedom of Information request - Important Deed of Variation (Treat as In Confidence) [DLM=Sensitive]**

FOIrequest to: Julie Simpson  
Sent by: Mirijana Soldatic

13/10/2015 03:09 PM

Dear Ms Simpson,

I refer to the below email concerning your FOI request to ASIC dated 23 September 2015, titled "Freedom of Information request - Important Deed of Variation" and note that we have not received a response.

I write to advise that if we do not receive a response to the issues raised by Friday 16 October 2015, your request will be regarded as withdrawn.

Mirijana Soldatic | FOI Coordinator | Chief Legal Office | Australian Securities and Investments Commission

----- Forwarded by Mirijana Soldatic/Melbourne/VIC/ASIC on 13/10/2015 03:03 PM -----

From: FOIrequest/Sydney/NSW/ASIC  
To: Julie Simpson <foi+request-1238-0cb01382@righttoknow.org.au>  
Date: 25/09/2015 02:37 PM  
Subject: Re: Freedom of Information request - Important Deed of Variation [SEC=UNCLASSIFIED]  
Sent by: Matthew Povey

---

Dear Ms Simpson

I refer to your request for a document (**Deed**) under the *Freedom of Information Act 1982* (the FOI Act) set out below.

ASIC proposes to release the Deed to you administratively, that is, outside of the FOI Act.

From the information you have been able to provide about the Deed we are of the view that you are associated with (or may even be) a Mr Phillip Sweeney who has provided documents like this to many government agencies and then requested either by himself, his agents or using pseudonyms under the FOI Act, the very documents which he has provided to those agencies.

We note that Mr Sweeney has previously been the subject of vexatious applicant declarations under the FOI Act for, among other things, conduct like that described above. We refer to the decisions of the Administrative Appeals Tribunal in *Sweeney and Australian Information Commissioner & Ors* [2014] AATA 531 and *Sweeney and Australian Information Commissioner and Australian Prudential Regulation Authority (Joined Party)* [2014] AATA 539.

One of the consequences of Mr Sweeney's conduct is that the document you seek in your request is now publically available from many sources.

We note, of which you may be aware, that the Deed is already on ASIC's disclosure log at item 36. The Deed, and parts thereof, also appears on the disclosure logs of many other agencies including the Administrative Appeals Tribunal and the Australian Crime Commission.

There is a comprehensive list and copies of all deeds relevant to Mr Sweeney's areas of concern published on a website that we understand is closely associated with Mr Sweeney. Here is a link [http://superfraud.org/?page\\_id=3187](http://superfraud.org/?page_id=3187).

Given that the Deed is readily and publically available we ask that you withdraw your FOI request, upon which we will provide you with a pdf copy of the document if you advise that you still genuinely require it.

Otherwise, If you wish to proceed with the application under the FOI Act for the purposes of having the Deed appear again on this agency's disclosure log, please state that purpose.

Kind Regards,

Matt Povey  
Senior Manager  
Administrative Law Team  
Chief Legal Office | ASIC | Melbourne

Julie Simpson	Dear Australian Securities and Investments C...	23/09/2015 07:11:03 AM
---------------	---	------------------------

From: Julie Simpson <foi+request-1238-0cb01382@righttoknow.org.au>  
To: FOI requests at ASIC <FOIrequest@asic.gov.au>,  
Date: 23/09/2015 07:11 AM  
Subject: Freedom of Information request - Important Deed of Variation

---

Dear Australian Securities and Investments Commission,

The document I seek is a copy of a consolidation Deed of Variation dated 6 May 1958 for a superannuation fund where the sponsoring employer is Elder Smith & Co Limited.

This document includes Regulation 50 - the Power of Amendment Clause. Regulation 50 is referenced by the Elder Smith & Co Limited Provident Funds Act 1963 (SA).

Regulation 50 requires a majority of the natural person Directors of the sponsoring Employer to execute any Deed of Variation. This document complies with that requirement.

This document also includes Regulation 29 that provides a pension benefit to qualifying male officers where the pension benefit formula is [Years of Service]/[Age when Leaving Service] times [Final Average Salary].

The document also includes Regulation 52 which is the Power of Termination to terminate the trust.

No provision is made to allow the Trust Estate to be transferred to the Trust Estate of another superannuation fund.

Yours faithfully,

Julie Simpson

---

Please use this email address for all replies to this request:  
foi+request-1238-0cb01382@righttoknow.org.au

Is FOIrequest@asic.gov.au the wrong address for Freedom of Information requests to Australian Securities and Investments Commission? If so, please contact us using this form:

[https://www.righttoknow.org.au/change\\_request/new?body=asic](https://www.righttoknow.org.au/change_request/new?body=asic)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:  
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

---

