



ASIC

Australian Securities & Investments Commission

Our Reference: 48336/15

24 December 2015

Mr Phillip Sweeney

By email: foi+request-1355-ab994544@righttoknow.org.au

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Dear Mr Sweeney

Request for internal review under section 54B of the *Freedom of Information Act 1982*

I refer to your email dated 17 December 2015 requesting an internal review under section 54B of the *Freedom of Information Act 1982* (FOI Act) of Ms Lauren Roy's decision dated 18 November 2015 on your request. I am authorised to conduct internal reviews of FOI decisions under section 54 of the FOI Act.

Your original request and ASIC's decision

Your request was in the following terms:

- The document or documents I seek is a copy of any apology that Mr Hackett as (sic) sent to the Widows who have not received their survivorship pensions, due to his misrepresentation of the "Jarrett Deed" being the genuine Trust Deed of one one (sic) Australia's oldest pension funds.

Ms Roy's decision was to refuse your request as there were no documents in ASIC's possession in the scope of your request. Section 24A of the FOI Act allows requests to be refused in this way.

Review

My review confirms Ms Roy's decision to refuse your request under section 24A of the FOI Act. This is because there are no documents in ASIC's possession in the scope of your request. I have extracted the relevant provision below for your information.

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 in the following terms:

Document lost or non-existent

- (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.

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Next steps

I provide you with the following information as required by the FOI Act.

In the event that you are dissatisfied with the decision:

1. You may within 60 days after the day on which you have been notified of this decision, 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.
2. You may lodge a complaint to the Commonwealth Ombudsman in respect to the conduct of ASIC in the handling of this request. To do so, you can contact the Ombudsman's office either: by email to ombudsman@ombudsman.gov.au, by letter to GPO Box 442 Canberra ACT 2601, or by fax to (02) 6276 0123.

Yours sincerely



Philip Laird

**Authorised internal-reviewer under subsection 54(1) of the FOI Act
for the Australian Securities and Investments Commission**