



ASIC

Australian Securities & Investments Commission

Level 24, 120 Collins Street
Melbourne VIC 3000
GPO Box 9827 Melbourne VIC 3001

Telephone: (03) 9280 3200

Facsimile: (03) 9280 3444

ASIC website: www.asic.gov.au

Our Reference: 28474/13

16 July 2013

Mr Brian P McDermott

By email: foi+request-288-8716f488@righttoknow.org.au

Dear Mr McDermott

**Freedom of Information Request –
Notice to Identify Documents under Section 24AB of the FOI Act**

I refer to your email received by this office on 8 July 2013 seeking access to documents under the *Freedom of Information Act 1982 (FOI Act)*.

Your request seeks access to the following:

Would you please advise as to how many complaints have been received by your Commission regarding Neil King (AFSL No. 277719) and his company, Camelot Derivatives Pty. Ltd., now in liquidation, regarding his trading techniques, and his statements and claims as to what profits he was supposed to have made for his clients. Since 2006-7.

I advise that your request does not comply with paragraph 15(2)(b) of the FOI Act as it does not provide enough information to enable me to identify the documents to which you seek access. Paragraph 15(2)(b) states that a request must 'provide such information concerning the document as is reasonably necessary to enable a responsible officer of an agency to identify it'. As paragraph 15(2)(b) has not been met, ASIC may, under paragraph 24(1)(b) of the FOI Act, refuse to process your application.

In its current form, it would be my intention to refuse access to the documents sought in your letter. However, to assist you to make a valid request, I make the following comments.

Your request is currently for an answer to a question, instead of an actual document in existence. ASIC receives reports of misconduct (complaints) from the public,

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generally through the ASIC website. Could you please confirm if your request is for copies of these reports of misconduct, and the exact time frame that you are seeking?

You have also referred to '*his statements and claims as to what profits he was supposed to have made for his clients*'.

It is also unclear if your request is for complaints about the statements and claims made, or if you are seeking access to a copy of the actual statements and claims made.

The Federal Court decision in *Australian Securities and Investments Commission v Camelot Derivatives Pty Limited (In Liquidation); In the Matter of Camelot Derivatives Pty Limited (In Liquidation) [2012] FCA 414* contained summaries of the misleading or deceptive conduct in Annexures A to D. The relevant time frame for this decision was March 2008 to October 2010.

With this in mind, we request that you clarify the actual documents in existence that you are seeking access to and a more precise time frame.

Charges

You should be aware that while the first 5 hours of decision making in respect to FOI requests is free of charge ASIC is entitled to charge for searching and retrieval of documents and decision making time in excess of 5 hours. The careful attention to the terms of the request can reduce the cost of the request.

Time frames

As a general rule, an application must be processed within 30 days. However, please note that under subsection 24AB(8) of the FOI Act, the time for processing your request is suspended from the day that you receive this letter and resumes on the day after ASIC receives from you a request in writing which contains sufficient information to identify the documents required.

Consultation

You may contact me on 03 9280 3382 or email fiona.crowe@asic.gov.au for assistance in making your request in a revised form which removes the grounds for refusal. If you wish to consult with me for this purpose, you are required to contact me within 14 days after the date that you receive this email.

Please note that following any consultation, if you amend the terms of your request, you are required under paragraph 15(2)(a) of the FOI Act to confirm **in writing** the terms of your amended request.

Subsection 24AB(6) of the FOI Act provides that before the end of the consultation period you are required to have done one of the following:

- (a) withdrawn the request;

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- (b) made a revised request;
- (c) indicated that you do not wish to revise the request.

If I do not hear from you about clarification of the terms of your request within 14 days after the date of this email your request will, under subsections 24AB(6) and 24AB(7) of the FOI Act, be taken to be withdrawn.

Yours sincerely



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