



ASIC

Australian Securities & Investments Commission

20 March 2018

Mr Phillip Sweeney

By email: foi+request-4432-3358add4@righttoknow.org.au

Dear Mr Sweeney,

Level 5, 100 Market Street,
Sydney NSW 2000
GPO Box 9827, Sydney NSW 2001
DX 653 Sydney

Telephone: +61 2 9911 2000

Facsimile: +61 2 9911 2414

www.asic.gov.au

Request pursuant to the Freedom of Information Act 1982 for access to documents

I refer to your request for access to documents under the Freedom of Information Act 1982 (**FOI Act**) dated 11 March 2018.

Your request seeks access to the following documents:

- *"a notice seeking leave to appear as a witness before the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry(Financial Services Royal Commission); or,*
- *"if such a document does not exist then ... a copy of a summons from the Royal Commission pursuant to Section 2 of the Royal Commission Act 1902 for one or more ASIC Commissioners to appear as witnesses before the Royal Commission."*

I am the authorised decision-maker for the purposes of section 23 of the Act and this letter gives notice of my decision.

The Decision

Section 24A of the FOI Act

Section 24A(1) of the FOI Act states:

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.

In processing your request inquiries have been made with members of ASIC staff working on ASIC 's response to the Financial Services Royal Commission team, and with ASIC's Commissioners.

The result of those inquiries has revealed no documents within the scope of your request.

I am satisfied that all reasonable steps have been taken to locate documents relevant to your request and I am satisfied that the documents either cannot be found or do not exist. I have therefore decided to refuse your request pursuant to s 24A(1) of the FOI Act.

Review Rights

In the event that 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 SYDNEY or by email to foirequest@asic.gov.au
2. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Office of the Australian Information Commissioner (OAIC) for a review of my decision under section 54N of the FOI Act. You may contact the OAIC by post at GPO Box 5218 Sydney NSW 2001, by email at enquiries@oaic.gov.au or by telephone on 1300 363 992
3. You may lodge a complaint with the OAIC in relation to the conduct of ASIC in the handling of this request. You may contact the OAIC as described above.

Yours faithfully



Melissa Smith

Senior Manager – Financial Services Royal Commission team

Regional Commissioner – South Australia

(Authorised decision-maker pursuant to sub-section 23(1) of the FOI Act)