



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Our reference: 27356/18

1 October 2018

Mr Phillip Sweeney
By email – foi+request-4783-594051a6@righttoknow.org.au

Dear Mr Sweeney

Freedom of Information Request – Notice to identify documents under section 24AB of the FOI Act

We refer to your request dated 8 September 2018 for access to documents under the *Freedom of Information Act 1982 (FOI Act)*.

Your request

You request a copy of a letter signed by Peter O'Connor addressed to Nicole Smith of NULIS Nominees (Australia) Limited that "*confirms that Nicole Smith... has engaged in criminal conduct – namely the contravention of subsection 1017C(5) of the Corporations Act 2001 as well as Section 84B of the Trustee Act 1936 (SA)*". You provide that the search period is from 1 December 2017 to the present.

Your request does not comply with paragraph 15(2)(b) of the FOI Act as it does not provide enough information for me to identify the document 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 refuse to process your application under paragraph 24(1)(b) of the FOI Act.

In its current form, I intend to refuse your application and not provide you with access to any documents under this request. However, to assist you to make a valid request I make the following comments.

Revising your request

We consider that your request for a document that confirms an entity has engaged in criminal conduct, as it currently stands, does not request access to a specific document.

ASIC can search for copies of letters provided to ASIC, however the current terms of your request prevents me from effectively identifying the document you seek. For this reason, we require you revise your wording as to whether any such document confirms criminal conduct.

Time frame for processing your request

Generally, an application must be processed within 30 days. However, please note that in accordance with section 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 can contact me by phone on 03 9280 4614 or email at david.asadi@asic.gov.au for assistance making your request in a revised form which removes the grounds for refusal. If you would like to consult with me for this purpose, you are required to contact me within 14 days after the date you receive this letter.

Please note that following any consultation, should you wish to amend the terms of your request, you must confirm the terms of your amended request in writing pursuant to paragraph 15(2)(a) of the FOI Act.

Pursuant to subsection 24AB(6) of the FOI Act, before the end of the consultation period, you must do one of the following:

- (a) withdraw the request;
- (b) make a revised request; or
- (c) indicate that you do not wish to revise the request.

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

Yours sincerely



David Asadi
Authorised decision-maker under subsection 23(1) FOI Act
Australian Securities and Investments Commission