



**ASIC**  
Australian Securities &  
Investments Commission

**Australian Securities  
and Investments Commission**

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Phillip Sweeney

By email: [foi+request-6592-54b818eb@righttoknow.org.au](mailto:foi+request-6592-54b818eb@righttoknow.org.au)

12 October 2020

Dear Mr Sweeney

**Freedom of Information Request No. FOI 157-2020**

I refer to your request made under the *Freedom of Information Act 1982* (**FOI Act**) dated 11 August 2020 by which you requested access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request sought access to:

- 1) the "No Action" letter sent to Andrew Hagger (a former NAB Executive) by ASIC in December 2019; and
- 2) "the "No Action" letter that ASIC would have sent to Nicole Smith [the former NAB Superannuation Trustee chairman] after her [Royal Commission] testimony that she did not consider that any criminal sanctions might apply to the taking of money out of superannuation accounts {even from the accounts of some 4000 dead fund members} for which there was no legal entitlement."

I am the authorised decision-maker for the purposes of s23 of the FOI Act and this letter gives notice of my decision.

**Document Searches**

Searches were conducted on 18 August 2020 for documents falling within the terms of your request by ASIC's Wealth Management Enforcement team. The team searched ASIC's internal database (SharePoint) and emails on Outlook using the following terms: "Andrew Hagger" and "no further action"; and "Nicole Smith" and "no further action". The searches were completed in approximately 30 minutes. I am satisfied that all reasonable steps have been taken to locate the documents falling within the terms of your request.

I have identified **one** document that falls within the scope of your request. I consulted third parties on the release of the document.

**Decision and Reasons for the Decision**

As part of my decision, I have considered:

- the FOI Act, in particular ss 11 and 15;
- the content of the document that falls within the scope of your request

- the terms of your FOI request dated 11 August 2020; and
- the Australian Information Commissioner's FOI Guidelines issued under s 93A of the FOI Act (**FOI Guidelines**).

I advise that I have decided to grant access to the document in full, and it is **enclosed** with this letter.

The FOI Act provides that charges may be assessed for time spent processing a request. I have decided that there are no charges applicable to the processing of your request in this instance.

### **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, Freedom of Information, GPO Box 9827, Brisbane QLD 4001 or by email to [foirequest@asic.gov.au](mailto: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 [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au) or by telephone on 1300 363 992

### **Right to complain**

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.

Please contact me on [Mabel.Say@asic.gov.au](mailto:Mabel.Say@asic.gov.au) or (02) 9911 5269 if you have any questions.

Yours sincerely,

MS.

**Mabel Say**

Freedom of Information Officer

(Authorised decision maker under section 23(1) of the FOI Act)