



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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30 October 2020

Phillip Sweeney
By email only: foi+request-6769-52eeafc0@righttoknow.org.au

Dear Mr Sweeney

Freedom of Information Request No. FOI 195-2020

Notice of Decision

I refer to your request received by us on 1 October 2020 under the *Freedom of Information Act 1982 (FOI Act)* in which you have sought information from the Australian Securities and Investments Commission (**ASIC**).

Your email seeks access to the following:

'copies of correspondence, including phone logs, between the Member for Goldstein to ASIC and between ASIC {including Joanna Bird} and the Member for Goldstein in relation to NULIS Nominees (Australia) Ltd and/or the documents listed above and the related occupational pension (superannuation) scheme.'

The documents referred to in your request are:

- *List of Deeds and related Enactment*
 - *Consolidated Deed of Variation of 6 May 1958*
 - *Deed of Variation 7 March 1961*
 - *Elder Smith & Co Provident Funds Act 1963 (SA)*
 - *Deed of Variation 3 August 1965*
 - *Deed of Variation 3 September 1970*
 - *Deed of Variation 28 August 1973*
 - *Deed of Variation 17 September 1973*
 - *Deed of Variation 20 November 1974*
 - *Deed of Variation 15 February 1977*
- *Legal Opinion*
 - *Opinion by Finlaysons dated 26 November 1962*
- *Covenant Regulation 30A (added by the Deed of Variation dated 20 November 1974) provides a death benefit in the form of a survivorship pension to the widows of qualifying male fund members.*

The Member for Goldstein referred to in your request is Mr Tim Wilson MP.

Decision

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

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.*

A search was undertaken of ASIC's commission correspondence system in which all correspondence from Members of Parliament is registered. I can confirm that searches undertaken on 1 October 2020 did not identify any correspondence between Mr Wilson and ASIC for the period 7 September 2020 to 1 October 2020.

Additional searches were undertaken of Ms Bird's email by her executive assistant on or about 13 October 2020 and no correspondence with Mr Wilson was identified for the period 7 September 2020 to 1 October 2020.

In the circumstances, I am satisfied that the documents you have requested do not exist. Accordingly, I am **refusing** your request under section 24A(1)(a) of the FOI Act.

Review rights

I provide you with the following information as required by section 26 of the FOI Act.

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 an internal review of my decision under section 54B of the FOI Act. This review is an independent process conducted by a Senior Freedom of Information Officer at ASIC. 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.
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 or by telephone on 1300 363 992.

Right to complain

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 set out above.

Yours faithfully,

A handwritten signature in blue ink, appearing to be 'J. Frank', with a stylized flourish at the end.

Justin Frank

Lawyer, FOI & Privacy

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