



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Mr Phillip Sweeney

By email: [foi+request-7293-
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cc: foi+request-7280-0e76d90c@righttoknow.org.au

Our Reference: FOI 071-2021

15 June 2021

Dear Mr Sweeney

**Freedom of Information Request No. 071-2021
Notice of Access Decision**

I refer to your two (2) requests for access to documents made under the *Freedom of Information Act 1982 (FOI Act)* received on 2 May 2021 and 2 June 2021 by which you requested access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Revised request and consultation

On 8 June 2021, I sent you a second notice under section 24AB of the FOI Act. The notice advised you that the two FOI requests may be treated as a single request under section 24(2) of the FOI Act because the subject matter of the requests were the same or substantially the same. The notice also advised that a practical refusal reason existed in relation to your request because your request did not provide information reasonably necessary to allow me to identify the documents sought by your request. On 8 June 2021 and 13 June 2021, you responded to the notice with a revision to your request as follows:

"A copy or copies of correspondence from David Locke to James Shipton former Chairman of ASIC or to Joseph Longo current Chairman of ASIC from 26 March 2021 to the present."

Decision and reasons for decision

I have conducted a search in response to your request and have found no documents falling within the terms of your request were identified. As a result, your request is refused in line with paragraph 24A(1)(b)(ii) of the FOI Act, which provides:

Requests may be refused if documents cannot be found, do not exist or have not been received

- (1) 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.

Searches were conducted for documents falling within the terms of your request by ASIC's Escalated Matters team and by the Executive Assistant to the Former Chair James Shipton and current Chair Joseph Longo.

The teams/individuals undertook searches for responsive documents on 8 June 2021 to 10 June 2021 and 15 June 2021. As part of the search of ASIC's records, ASIC staff used search parameters such as relevant dates, the names of the sender "D Locke", "David Locke" and "AFCA". These parameters were used in relevant ASIC databases held in Sharepoint and Microsoft Outlook for James Shipton and Joseph Longo. I confirm that we have not located any documents falling within the scope of your request.

My decision is therefore to refuse your request for access to documents under section 24A of the FOI Act on the basis that all reasonable steps have been taken to find the document(s) that fall within the scope of your request. I am satisfied that the document(s) do not exist. I have therefore decided to refuse your request pursuant to section 24A(1)(b)(ii) 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, 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

3. You may lodge a complaint with the OAIIC in relation to the conduct of ASIC in the handling of this request. You may contact the OAIIC as described above.

If you have any questions, please contact me at krystal.fung@asic.gov.au.

Yours sincerely

A handwritten signature in black ink that reads "krystal fung". The signature is written in a cursive, lowercase style.

Krystal Fung
(Authorised decision maker pursuant to subsection 23(1) of the FOI Act)
For the Australian Securities and Investments Commission