



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Phillip Sweeney

By email: foi+request-5562-8688ecfb@righttoknow.org.au

Our Reference: FOI 158-2019

27 August 2019

Dear Mr Sweeney

Freedom of Information Request No. FOI 158-2019

I refer to your request for access to documents made under the *Freedom of Information Act 1982 (FOI Act)* on 6 August 2019 by which you requested access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request sought access to:

... a copy of the duty stamped and executed founding Trust Deed dated 23 December 1913 or a Court Order reinstating the terms of this Trust Deed if the original executed Trust Deed cannot be located.

In 1913 the sponsoring employer was Elder Smith & Co Ltd.

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

Decision and reasons for the 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

Document lost or non-existent

- (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.

I have searched our electronic records and confirm that we have no documents that fall within the scope of your request. I am satisfied the documents do not exist.

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 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 enquiries@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 set out above.

If you have any questions or wish to discuss, please contact me at lauren.roy@asic.gov.au.

Yours sincerely



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