



**Office of the  
Minister for Revenue and Financial Services**

The Hon Kelly O'Dwyer MP

22 December 2016

FOI Ref: 2053

Mr John Telford  
Secretary  
VOFF

Email: [johnt@learth.com.au](mailto:johnt@learth.com.au)

Dear Mr Telford

**FREEDOM OF INFORMATION (FOI) REQUEST: DECISION**

I refer to your FOI request to the Minister for Revenue and Financial Services dated 1 December 2016. Your request reads as follows:

*'The Minister for Small Business and Assistant Treasurer, Kelly O'Dwyer MP, stated in the press release dated April 1st 2016 that after careful and extensive consideration, "The Government considered the action taken by the financial regulators, ASIC and APRA, and is satisfied that in relation to the collapse of Trio, both regulators carried out their roles and responsibilities appropriately, in accordance with the law and the regulatory framework." (ref 1) The information the Minister relied on to make the above decision must have included the Appendix 4 document (ASIC's review of its interactions with the Astarra Strategic Fund and Trio Capital Limited and its associated entities). (ref 2) Victims of Financial Fraud (VOFF Inc) seek the following information under the Freedom of Information Act 1982 (FOI Act). Please provide copy of Appendix 4.'*

I am replying to you on the Minister's behalf.

**Material Considered**

The material to which I have had regard in making this decision includes:

- your request;
- the relevant provisions of the *Freedom of Information Act 1982* (the Act);
- guidelines issued by the Australian Information Commissioner; and
- the documents within the scope of your request.

### **Decision**

I have identified a document held by the department which comes within the scope of your request. I have decided, however, to deny access to that document. Further information in relation to my decision is set out below.

### **Section 26**

Section 26 of the Act provides that where an agency refuses to grant access to material in response to a request made under the Act, it must provide the applicant with a written statement setting out the decision maker's findings on material questions of fact, the material on which those findings are based and the reasons for the decision. Such information, in relation to my decision in this matter is set out below.

#### Findings on Material Questions of Fact

My finding is that the document coming within the scope of your request is a confidential submission made by ASIC to the PJC Inquiry into the collapse of Trio Capital Limited.

#### Material on Which Those Findings are Based

The material on which the above finding is based is the document itself.

#### Reasons for the Decision

The reason for my decision to refuse access to the documents is that it is, in my view, exempt from disclosure under section 46 of the Act. Further details are set out below.

### **Section 46**

Section 46 provides that a document is exempt if its public disclosure would infringe the privileges of the Parliament of the Commonwealth.

I am, on behalf of the Minister, satisfied that disclosure of the document you seek would infringe the privileges of the Commonwealth Parliament. It is, therefore, in my view, an exempt document and, as such, is not required to be released under the Act.

**Rights of Review**

A statement setting out your rights of review in this matter is attached.

Yours sincerely

A handwritten signature in black ink, appearing to read "Julian Sheezel". The signature is fluid and cursive, with the first name "Julian" and last name "Sheezel" clearly distinguishable.

Julian Sheezel  
Chief of Staff

## **INFORMATION ON RIGHTS OF REVIEW**

### **APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION**

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

Applications for review must be in writing and must:

give details of how notices must be sent to you; and

include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

### **AND/OR**

### **3. COMPLAINTS TO THE INFORMATION COMMISSIONER**

Section 70 of the Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner  
Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.