

Our ref: 204/2018



ASIC

Australian Securities & Investments Commission

2 August 2018

Jason Simpson

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Dear Mr Simpson

FREEDOM OF INFORMATION ("FOI") APPLICATION

I refer to your email of 19 July 2018 and your request under the *Freedom of Information Act* 1982 (**FOI Act**) for information in relation to shareholding of 3D Group Pty Ltd ACN 168 587 531 (**3D Group**), 3D Industries Pty Ltd ACN 168 586 703 (**3D Industries**) and 333D Pty Ltd ACN 603 584 069 (**333D**). Specifically, you request:

"... a shareholders list of 3D Group Pty Ltd and 3D Industries Pty Ltd at the time of the companies being placed into VA (24/12/2014) and the list of shareholders that were transferred to the proponent of the DOCA 333D when VA ended."

I advise that I am the authorised decision maker for the purposes of section 23(1) of the *Freedom of Information Act* 1982 (the FOI Act).

Access to documents under the FOI Act

Lists of information

Under s11(1) of the FOI Act, every person has a legally enforceable right to obtain access to 'a document of an agency' other than an exempt document....'. The right of access under the FOI Act is to existing documents rather than to information. The right of access applies to documents that exist at the time the FOI request was made. It does not require an agency to create a new document in response to a request for access. In particular, your request is for information and not for a specific document.

Provided in Annexure 1 is some helpful information on how to obtain share information contained on ASIC's register of companies.

Please note that where a document is publicly available for a **fee**, it is **excluded** from the operation of the FOI Act pursuant to section 12(1)(b), which states that " *a person is not entitled to obtain access under this Part to ... a document that is open to public access, as part of a public register or otherwise, ... where that access is subject to a fee or other charge*".

My decision

Searches of ASIC's records have been undertaken in accordance with the provisions of the FOI Act. I confirm that ASIC does not hold any documents which fit the terms of your request and therefore your request is refused under s24A(1) of the FOI Act.

Section 24A(1) of the FOI Act states "an agency or Minister may refuse a request for access to a document if... the agency or Minister is satisfied that the document... does not exist".

Review Rights

I provide you with the following information as required by section 26 of the FOI Act. If 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, Administrative Law GPO Box 9827 Sydney NSW 2001 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 described above.

Should you have any questions about your Freedom of Information request, you may contact me by email at grace.gagliano@asic.gov.au.

Yours sincerely

Grace Gagliano

Registry

(Authorised Decision-maker pursuant to section 23(1) of the FOI Act)

Annexure 1

Company Share Registers

Under the Corporations Act, companies are required to set up and maintain a register of members (also known as the share register). The share register is required to contain, among other things, information about the allotment of shares including the date of allotment, to whom and details about transfers of shares. You will need to contact the company directly to obtain this information. A company may impose a fee for inspection of its register unless you are a member of the company.

Records held by ASIC

Company information and shares

Historic information about a company, including the details of directors, members (shareholders) and address information, is available on a **Current and Historical Company Extract**. You can request a company extract through our ASIC Connect portal (please see how to obtain an extract below). Please note that proprietary companies are only required to provide to ASIC the top 20 members and public companies are not required to notify ASIC about the company's members. Company information held on ASIC's registers about shares is publicly available information and therefore, access to it cannot be sought under the FOI Act.

To assist you, I have listed some of the type of documents lodged with ASIC by companies which contain share information. These are:

- **Form 201 (Application for Registration as an Australian Company)**, *Application for Registration as an Australian Company*
- **Form 484 (Change to Company Details)**, *section C1 Cancellation of shares, section C2 Issue of Shares, section C3 Change to share structure, section C4 Changes to the register of members for proprietary companies*
- **Form 211 (Notification of division or conversion of class of shares)**, *to notify ASIC of the division of shares into classes of shares that were previously undivided and the conversion of shares into another class*
- **Form 2205 (Notification of resolutions regarding shares)**, *Form 205A, Form 205, to notify ASIC that a resolution regarding shares has been passed by a company*
- **Form 207Z (Certification of compliance with stamp duty law)**, *Officeholder's certification that a contract for the issue of shares has been duly stamped, under relevant state or territory stamp duty law. Form is lodged together with Form 484*
- **Form 208 (Notification of details of shares issued other than for cash)**, *Lodged by public companies to notify ASIC of details of shares issued other than for cash where the shares were not issued under a written contract, or where the shares are issued under contract but the company does not want to lodge a company with a written contract*
- **Form 210 (Notification of statement of special rights carried by shares)**, *Form is a cover sheet attached to each document (including an agreement or consent) made by a Public company.*

Customised reports

Alternatively, you may wish to make enquiries with our Reporting and Information team at access.request@asic.gov.au about obtaining a customised report. You should provide them with the exact details you require, and they will respond to you with a quote in relation to the cost for any such report.

How to access documents

You may obtain publicly available information and documents, such as the information listed above, through ASIC Connect at www.asic.gov.au/search-organisations or through one of our information brokers. More details about our information brokers can be found at www.asic.gov.au/informationbrokers. Please note fees apply.

If you need assistance accessing documents via ASIC Connect, please call our Customer Contact Centre (CCC) on 1300 300 630. The CCC business hours are Monday to Friday 8:30 am to 5:00 pm (AEST). The CCC closes for business on national public holidays and has limited services available on public holidays for each state and territory.