



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Mr Reece Ferrara
By email: Reece.Storme@protonmail.com

Our Reference: CAS-106140-J4J6Q0

16 December 2022

Dear Mr Ferrara

ASIC's review of your report of misconduct

Thank you for your correspondence dated 19 August 2022. After we received your correspondence, we escalated your concerns and reviewed how we handled your previous report of misconduct (ASIC ref: CAS-94980-X4S6N1).

We apologise for the delay in responding to you. Unfortunately, our review and response took longer than we expected.

Our review

We have considered the information that you provided. You have raised many issues with ASIC, and some of these issues involve laws that ASIC does not enforce. Our review focused on the allegation of whistleblower victimisation.

Our review confirmed the previous decision not to take further action.

Whistleblower victimisation

It appears to ASIC that you may not meet the whistleblower definition under the law. As set out in our Information Sheet 239, we do not decide who is and who is not a whistleblower. The definition of a whistleblower is set out in the law. If there is a dispute about whether you satisfy this definition, it can only be determined by a court.

It follows that if you do not meet the whistleblower definition, then the victimisation offence does not apply to your circumstances.

Even if you did meet the definition, we have decided not to take further regulatory action regarding whistleblower victimisation. We cannot show to the standard required, a sufficient link between blowing the whistle and victimisation.

ASIC is grateful for the information that you provided and this is valuable intelligence for ASIC.

Next steps

We know that you have already sought legal advice and it will ultimately be up to you weigh the costs and benefits involved in taking your own private action.

The Corporations law provides for the Minister to undertake a review of the operations of the whistleblower protections, and this will likely be in 2024 (being five years after the introduction of those laws, see section 1317AK of the *Corporations Act 2001*).

We thank you for taking the time to raise this matter with ASIC.

Commonwealth Ombudsman

If you have concerns about ASIC's management of this case, you can complain to the Commonwealth Ombudsman.

The Commonwealth Ombudsman cannot change ASIC's decision, but they can review if we decided fairly and in line with the law.

Yours sincerely

A handwritten signature in black ink, appearing to read 'F Crowe'.

Fiona Crowe
Escalated Matters and Government
Australian Securities and Investments Commission