FBI Exhibit No. 4: Conspiracy to Exclude FoodQuestTQ from an Industry Meeting that Revealed the U.S. Government’s Unlawful Misappropriation of FoodQuestTQ Patented and Unpatented Ideas Including the Company’s Trade Secrets

In early **November 2012,** FoodQuestTQ LLC arranged to attend an FDA industry meeting after discussions with Mr. Jody Menikheim, the head of the FDA Food Defense Team. Mr. Menikheim advised FoodQuestTQ LLC that the purpose of the meeting, to be held at the Washington, D.C., headquarters of the Grocery Manufacturers Association (GMA), was to discuss the importance of food defense planning and ways to make a threat assessment tool known as C.A.R.V.E.R. plus Shock easier to use by members the food industry. C.A.R.V.E.R. plus Shock is a tool first developed by the U.S. Military Special Forces as a targeting tool to destroy the critical infrastructures of enemies during wartime. The tool was converted by the FDA to use as a food risk assessment tool. C.A.R.V.E.R. plus Shock is a major funding line item for the FDA Food Defense Team. The meeting was to be attended by several large food manufacturers where FoodQuestTQ was scheduled to demonstrate their computer software tools, i.e., Food DefenseTQ and Food Defense Architect, to help the food industry build food defense plans.

On **November 27, 2012**, FoodQuestTQ LLC received an e-mail from Mr. Colin Barthel, an FDA contractor, informing FoodQuestTQ that the meeting at GMA was limited to only food processors and therefore, FoodQuestTQ LLC was not welcome to attend. A copy of the e-mail from Mr. Barthel appears at [FBI Exhibit No. 4 a.](FBI%20Exhbit%20No.%204%20a..pdf)

Based on their discussion with Mr. Menikheim FoodQuestTQ LLC, and in preparation for the industry meeting, FoodQuestTQ LLC published an article on **December 6, 2012,** that discussed some of the challenges associated with the use of C.A.R.V.E.R. plus Shock and soliciting inputs from the food industry on the tool’s utility and ways to improve it. A copy of the article appears [FBI Exhibit 4 b.](FBI%20Exhbit%204%20b..pdf)  The results of the survey indicated that many companies were uncomfortable with the use of C.A.R.V.E.R. plus Shock as a threat assessment tool. Mail Chimp, commercial e-mail monitoring software shows that the article received the significant interest of the FDA with 49 openings by the FDA Food Defense Team alone. See [FBI Exhibit No. 4 c.](Document%20-%20FBI%20Exhibit%20No.%204-c..pdf)

On **December 12, 2012,** FoodQuestTQ LLC received an e-mail from Mr. Warren Stone of the Grocery Manufacturer’s Association who was hosting the FDA meeting, advising that FoodQuestTQ was not welcome to attend the industry meeting. Mr. Stone advised that he could not understand why the FDA was “so dead set against” FoodQuestTQ LLC’s participation at the meeting. A copy of the communication from Mr. Stone at the GMA appears at [FBI Exhibit No. 4 d.](FBI%20Exhibit%204%20d..pdf)  Mr. Menikheim later advised that the reason for excluding FoodQuestTQ LLC from the meeting was because he did not want to give FoodQuestTQ LLC an unfair competitive advantage over other businesses that were involved in developing and selling food defense planning tools.

Mr. Stone arranged, however, an opportunity for FoodQuestTQ LLC to brief any remaining members of the food industry late on the afternoon of **December 12, 2012,** after the conclusion of the FDA meeting and only after the FDA left the GMA headquarters building. Prior to entering the meeting room FoodQuestTQ saw the sign-in sheet for the FDA meeting and noticed that Ms. Jennifer McEntire of Leavitt Partners attended the meeting along with Mr. Donald Hsieh of Tyco Integrated Security Systems. Tyco Integrated Security Systems is a direct competitor of FoodQuestTQ LLC. A copy of the sign in sheet for the FDA meeting at GMA headquarters can be obtained from Mr. Warren Stone. Mr. Stone’s contact information appears at [FBI Exhibit 4 e.](FBI%20Exhibit%20No.%204%20e..pdf)

FoodQuestTQ LLC alleges that the FDA engaged in predatory and anticompetitive conduct by excluding FoodQuestTQ LLC from participating in the December 12, 2012, FDA meeting at GMA headquarters. FoodQuestTQ LLC alleges that the real purpose of the FDA meeting with food processors was to demonstrate the FDA Food Defense Plan Builder tool that was built by the U.S. Government to compete directly with FoodQuestTQ LLC’s pre-existing Food DefenseTQ and Food Defense Architect commercial tools for building food defense plans. FoodQuestTQ LLC further alleges that the U.S. Government was acting as a defacto competitor with FoodQuestTQ LLC and an “entity engaged in commerce” as defined under Sherman Antitrust by knowingly, willfully and intentionally excluding FoodQuestTQ LLC from the meeting to gain competitive advantage for the U.S. Government’s own Defense Plan Builder tool.

The FDA allowed other non-food processor companies to attend the FDA meeting at GMA on **December 12, 2012.** Dr. Jennifer McEntire of Leavitt Partners, a non-food processor, attended the meeting and was knowingly, willfully and intentionally engaged in a direct conflict of interest by engaging in work under contract to the FDA to duplicate FoodQuestTQ LLC products allegedly using FoodQuestTQ copyrighted research and ideas. FoodQuestTQ LLC alleges that the company’s proprietary information and trade secrets were used by Ms. McEntire to assist the FDA in building their Food Defense Plan Builder computer automated food risk management tool that duplicated the pre-existing commercial tools being sold by FoodQuestTQ LLC.

Dr. Donald Hsieh of Tyco Integrated Security Systems, another non-food processor, also attended the FDA meeting held at GMA headquarters on **December 12, 2012.** Tyco integrated Security Systems is a direct competitor of FoodQuestTQ LLC in the building and sale of computer automated food risk management systems for the food industry. Moreover, the FDA has publicly endorsed Tyco Integrated Security Systems in violation of federal procurement and procurement integrity laws. See [FBI Exhibit No. 25.](FBI%20Exhbit%20No.%2025..pdf) Also see Sub-brief E: Violation of Federal Procurement Law for more information at [FBI Exhibit No. 35.](FBI%20Exhibit%20No.%2035.pdf)

FoodQuestTQ LLC alleges that FDA is engaging in predatory and anticompetitive conduct as an “entity engaged in commerce” within the meaning of Sherman Antitrust by violating federal procurement and integrity laws to knowingly, willfully and intentionally stifle technological innovation that hurts the consumer. For example, the FDA retaliated against FoodQuestTQ LLC because of the company’s **December 6, 2012**, publication that raised questions about the viability of C.A.R.V.E.R. plus Shock. A copy of the **December 6, 2012,** FoodQuestTQ LLC publication appears [FBI Exhibit No 4 b.](FBI%20Exhbit%204%20b..pdf)  This is because the FDA Food Defense Team made multi-million dollar investments in C.A.R.V.E.R. plus Shock as their food defense risk assessment tool of choice and they continue to receive millions of dollars each year in appropriated Congressional funds to maintain the program. FoodQuestTQ products represent a competitive threat to FDA continued funding of C.A.R.V.E.R. plus Shock by providing a non-subjective science and risk-based alternative based on quantitative standards. FDA by stifling innovation is hurting the consumer.