

AFFIDAVIT OF TRUTH - JOHN H. HNATIO

CASE OVERVIEW

In 2012, JOHN H. HNATIO, the owner of a small computer software firm called FoodQuestTQ LLC discovered that the Food and Drug Administration (FDA) was misappropriating his small company's intellectual property. In January 2013, HNATIO reported the matter to the FDA Chief Counsel. The FDA Chief Counsel and a member of her staff (both practicing attorneys) advised HNATIO that they would conduct a fair and objective review of the matter. Instead, the Chief Counsel and her staff member abandoned their obligations of good faith and fair dealings to mount a legal defense of the FDA and the FDA employees alleged to be guilty of the wrongdoing in the first place. The attorneys involved did not timely inform HNATIO that they had moved from the declared mediators of the dispute to legal defense counsel for the U.S. Government.

In March 2013, JOHN H. HNATIO, confronted with this conflict of interest in the handling of the matter, filed a complaint with the National Ombudsman for Small Business of the U.S. Small Business Administration. The matter was then elevated by FDA Office of Chief Counsel to the Office of General Counsel of the Department of Health and Human Services (HHS). HHS is the parent agency of the FDA. The lead HHS Counsel abandoned his obligations of good faith and fair dealings by mounting a legal defense of the HHS, FDA and FDA employees alleged to be guilty of the wrongdoing in the first place. The lead HHS counsel joined the FDA Chief Counsel and her staff member to engage in direct conflicts of interest, the conduct of an unlawful investigation and the obstruction of justice.

Over the period July 1, 2014 to April 20, 2015, the Affiant filed numerous complaints against the attorneys involved in the alleged unethical conduct. These complaints were filed with the D.C. Office of Bar Counsel and the D.C. Board on Professional Responsibility for two of the attorneys who are registered to practice in the District of Columbia. The third attorney involved was practicing in the District of Columbia but is licensed to practice law in the State of New York. The Affiant has also filed separate ethics charges in her case in the State of New York. Affiant concludes that both the D.C. Board on Professional Responsibility and the D.C. Office of Bar Counsel are corrupted and not faithfully meeting their obligations to hold the three highly placed U.S. Government attorneys involved in this matter accountable for their unethical conduct.

On May 7, 2015, Affiant served a Constructive Notice (CN) on the Acting Commissioner of the Food and Drug Administration, Dr. Stephen Ostroff, pursuant to §§ 1-308 (remedy) and 1-103 (recourse) under common law as codified by the Uniform Commercial Code. Commissioner Ostroff failed to rebut the facts as stated in the affidavit of truth within the legally allotted 45 day time period thereby "defaulting" at 11:59 PM on June 21st, 2015. Default having occurred, the facts as set forth in Affiant's affidavit of truth are now established as conclusive and dispositive facts in all subsequent matters of law in accordance with the Uniform Commercial Code §1-205. By defaulting, Commissioner Ostroff concedes that the three U.S. Government attorneys involved in this matter engaged egregious unethical conduct and criminal violations of law.

FORTY-FOUR (44) POINTS OF TRUTH

1. Over the period 2006 to 2012, FDA officials received proprietary briefings concerning the development of JOHN H. HNATIO's food risk management software.
2. In December 2012 JOHN H. HNATIO learned that the Food and Drug Administration (FDA) was misappropriating his company's intellectual property to duplicate his company's line of food safety software.
3. The FDA was giving away the duplicate software to the food industry free of charge.
4. The matter was brought to the attention of Ms. Elizabeth Dickenson, Esq., Chief Counsel for the FDA, by Senator Barbara Mikulski (D/MD). [\[EXHIBIT 1\]](#)
5. In a letter to Ms. Elizabeth Dickenson JOHN H. HNATIO raised the possibility of both civil and criminal wrongdoing by the FDA and their employees. [\[EXHIBIT 2\]](#)
6. JOHN H. HNATIO was assured by Ms. Dickenson's staff member, Ms. Ariel Seeley, Esq., that the entire matter would undergo a fair and objective review. [\[EXHIBIT 3\]](#)
7. Both Ms. Dickenson and Ms. Seeley later abandoned their duty of good faith and fair dealings and turned the matter it into a legal defense of the FDA and the alleged FDA wrongdoers.
8. Ms. Dickenson and Ms. Seeley engaged in a direct and actual conflict of interest by conducting their own investigation of matter.
9. Office of Government Ethics (OGE) guidance stipulates that Ms. Dickenson and Ms. Seeley should have recused themselves and referred the matter to the HHS Office of Inspector General for an independent investigation. [\[EXHIBIT 4\]](#)
10. 5 C.F.R. Part 2635, Subpart A, General Provisions, requires employees of the U.S. Government to avoid appearances of, and never engage in, actual conflicts of interest. [\[EXHIBIT 5\]](#)
11. Ms. Dickinson and Ms. Seeley obstructed justice by refusing to consider evidence of FDA wrongdoing offered to them by JOHN H. HNATIO as they conducted their own investigation of the matter. [\[EXHIBIT 6\]](#)
12. In March 2013, JOHN H. HNATIO filed a complaint with the National Ombudsman for Small Business that the FDA was violating the law. [\[EXHIBIT 7\]](#)
13. The matter was then elevated by the FDA to Mr. Dale Berkley, Esq. of the Department of Health and Human Services (HHS), Office of General Counsel (OGC).
14. Mr. Berkley abandoned his duty of good faith and fair dealings and turned the matter it into a legal defense of the HHS, FDA and the alleged FDA wrongdoers.
15. Mr. Berkley engaged in an actual conflict of interest by conducting his own investigation of the allegations.
16. Office of Government Ethics (OGE) guidance stipulates that Mr. Berkley should have recused himself and referred the matter to the HHS Office of Inspector General for an independent investigation. [\[EXHIBIT 4\]](#)
17. 5 C.F.R. Part 2635, Subpart A, General Provisions, requires employees of the U.S. Government to avoid appearances of, and never engage in, actual conflicts of interest. [\[EXHIBIT 5\]](#)
18. Mr. Berkley obstructed justice by refusing to consider evidence of FDA wrongdoing offered to him by JOHN H. HNATIO as Mr. Berkley conducted his own investigation of the matter. [\[EXHIBIT 6\]](#)

19. Mr. Berkley engaged in an actual conflict of interest to obstruct justice by improperly extending lawyer-client privilege to the FDA employees alleged to have participated in the wrongdoing. [EXHIBIT 8]
20. On April 26, 2013, Mr. Berkley issued the results of his investigation stating that: 1) FoodQuestTQ LLC failed to cooperate in their investigation; 2) they could find no evidence of wrongdoing, and; 3) no laws were broken. [EXHIBIT 9]
21. On July 1, 2014, JOHN H. HNATIO filed a complaint against Mr. Dale D. Berkley, Esq., a licensed attorney practicing in the District of Columbia with the D.C. Office of Bar Counsel. [EXHIBIT 10]
22. On September 10, 2014, JOHN H. HNATIO expanded his complaint to include another attorney licensed to practice law in the District of Columbia, Ms. Elizabeth Dickenson, Esq. [EXHIBIT 11]
23. On September 22, 2014, the D.C. Office Bar Counsel advised JOHN H. HNATIO that they would not pursue HNATIO's complaints of unethical conduct by Mr. Berkley or Ms. Dickinson. [EXHIBIT 12]
24. On October 9, 2014, JOHN H. HNATIO wrote a letter directly to the Chairman, D.C. Board on Professional Responsibility expressing concerns that the D.C. Office of Bar Counsel was corrupted. [EXHIBIT 13]
25. On October 10, 2014, JOHN H. HNATIO was informed by the D.C. Board on Professional Responsibility that they would review the D.C. Office of Bar Counsel decision not to proceed in the matter of HNATIO'S original complaints. [EXHIBIT 14]
26. On October 16, 2014, JOHN H. HNATIO received a letter from the D.C. Office Bar Counsel stating that they could find no reason to disturb their original determination not to investigate HNATIO's allegations. [EXHIBIT 15]
27. On November 1, 2014, JOHN H. HNATIO wrote a second letter to the Chairman, D.C. Board on Professional Responsibility raising concerns that the process of holding the highly placed U.S. government attorneys accountable of their unethical conduct was corrupt. [EXHIBIT 16]
28. On November 3, 2014, JOHN H. HNATIO wrote a letter to Chief Judge Washington of the D.C. Court of Appeals expressing concerns that the D.C. Board on Professional Responsibility and the D.C. Office of Bar Counsel were corrupted. Chief Justice Washington did not respond to the letter. [EXHIBIT 17]
29. On November 17, 2014, JOHN H. HNATIO received a letter from the D.C. Office on Professional Responsibility alleging that HNATIO's concerns about the handling of his complaints were misplaced and untrue. [EXHIBIT 18]
30. The same letter states that the D.C. Office of Bar Counsel was reopening the matter of JOHN H. HNATIO's complaints of unethical conduct by Mr. Berkley and Ms. Dickenson.
31. On November 21, 2014, JOHN H. HNATIO wrote to Chief Judge Washington for a second time requesting his personal counsel on how to proceed. Chief Justice Washington did not respond to the letter. [EXHIBIT 19]
32. On December 14, 2014, JOHN H. HNATIO wrote for a third time to Chief Judge Washington to request his counsel on how to proceed. [EXHIBIT 20]
33. On January 22, 2015, JOHN H. HNATIO received a letter from Chief Judge Washington informing HNATIO, "...you may proceed on the well-founded assumption that the discipline authorities are acting with the utmost good faith in this matter." [EXHIBIT 21]

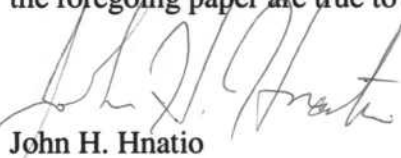
34. On January 29, 2015, JOHN H. HNATIO sent a letter to the DC Office of Bar Counsel making all of the information on the matter available including an exhaustive report prepared at the request of the Federal Bureau of Investigation (FBI) and exhibits. [EXHIBIT 22]
35. On February 18, 2015, Mr. Michael T. Gavin stated in a letter to Representative Chris Van Hollen that "Mr. Hnatio was advised by SBA and HHS that his claims were not substantiated," and, "...the FBI is unable to address all of the intellectual property fraud schemes that target our citizens..." [EXHIBIT 23]
36. On March 2, 2015, the Federal Bureau of Investigation (FBI) responded that Affiant's letter was forwarded to the Internal Investigation Section of the FBI for review. [EXHIBIT 24]
37. On March 3, 2015, JOHN H. HNATIO wrote a letter to Michael E. Horowitz, Office of the Inspector General, U.S. Department of Justice, reporting the serious violations of ethics and criminal laws by U.S. Government officials of the Food and Drug Administration and the Department of Health and Human Services. [EXHIBIT 25]
38. On April 20, 2015, JOHN H. HNATIO received another letter from Mr. Shipp of the DCOBC refusing to investigate the matter since, U.S. Government attorneys are, "entitled to defend their clients [sic] interests." [EXHIBIT 26]
39. On April 28, 2015, Affiant received a letter from the Department of Justice (DOJ) Office of Inspector General (OIG) stating that they considered the matter closed and would not be exchanging any further correspondence with HNATIO regarding the matter. The DOJ-OIG advised that any further communications by the Affiant regarding the matter were to be directed to the FBI Inspection Division. [EXHIBIT 27]
40. On May 7, 2015, JOHN H. HNATIO served a Constructive Notice (CN) on the Acting Commissioner of the Food and Drug Administration, Dr. Stephen Ostroff, pursuant to §§ 1-308 (remedy) and 1-103 (recourse) under common law as codified by the Uniform Commercial Code. [EXHIBIT 28]
41. Commissioner Ostroff did not refute the facts as stated in the Affidavit within the legally allotted 45 day time period thereby "defaulting" at 11:59 PM on June 21st, 2015. Default having occurred, the facts as set forth in Affiant's affidavit of truth are now established as conclusive and dispositive facts in accordance with the Uniform Commercial Code §1-205.
42. On May 8, 2015, JOHN H. HNATIO filed a request for an independent investigation by the Attorney General of the District of Columbia of the alleged unethical conduct by Ms. Elizabeth Dickinson and Mr. Dale Berkley and the possible corruption of the DC Office of Bar Counsel and the DC Board on Professional Responsibility. [EXHIBIT 29]
43. On May 18, 2015, the Chief Deputy Attorney General, Natalie O. Ludway, advised that her office had no authority to conduct such an investigation and urged Affiant to seek legal counsel. [EXHIBIT 30]
44. On July 15, 2015, the Affiant contacted the FBI Inspection Division to determine the status, if any, of the matter. The FBI Inspection Division advised that they are not responsible for investigating the matter and they did not know who in the FBI was responsible. [EXHIBIT 31]

Affiant incorporates by reference the comprehensive report of investigation prepared at the request of the FBI that includes a computer library of documentary evidence supporting each of the individual statements of truth as set forth in paragraphs one (1) through forty-four (44), above. The

thirty-one (31) supporting exhibits to this affidavit of truth and the above referenced report dated November 28, 2014, entitled, "The Case of FoodQuestTQ" and all supporting exhibits can be directly accessed on the World Wide Web at <http://www.jgpis.org>

Affiant also incorporates by reference the April 29, 2015, Constructive Notice (CN) served on the Acting Commissioner of the Food and Drug Administration, Dr. Stephen Ostroff, pursuant to §§ 1-308 (remedy) and 1-103 (recourse) under common law as codified by the Uniform Commercial Code. Dr. Ostroff's failure to rebut the facts as stated within the specified legal time period now makes these facts conclusive and dispositive in all matters of law. By defaulting, the U.S. Government concedes to violations of ethics and criminal laws by the U.S. Government and the three attorneys involved in the matter. The FDA Affidavit of Truth and all supporting exhibits can be directly accessed on the World Wide Web at <http://www.jgpis.org>

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true to the best of my knowledge and belief.



John H. Hnatio

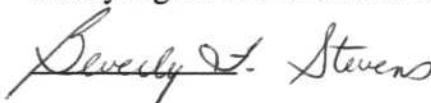
County of: Frederick
State of: Maryland

Witnessed the above signature affixed to this document on this day of July 15, 2015



7-17-15

Notary Signature and Official Seal on this day of May 8, 2015



(11/6/16 Expiration)



LIST OF EXHIBITS

DCCA EXHIBIT 1: January 28, 2013, letter from Elizabeth Dickinson, Chief Counsel FDA, stating the FDA is looking into Affiant's concerns.

DCCA EXHIBIT 2: Return correspondence dated February 12, 2013, from Affiant to Elizabeth Dickinson, Chief Counsel FDA, raising concerns about possible unethical and criminal conduct by FDA employees.

DCCA EXHIBIT 3: March 2, 2013, note for Ms. Ariel Seeley, staff counsel to Elizabeth Dickinson, Chief Counsel FDA, from Affiant referring to Ms. Seeley's verbal promise assuring that a fair and objective review of the matter would be conducted.

DCCA EXHIBIT 4: Office of Government Ethics (OGE) guidance stipulating that Ms. Dickenson and Ms. Seeley should have recused themselves and referred the matter to the HHS Office of Inspector General for an independent investigation.

DCCA EXHIBIT 5: 5 C.F.R. Part 2635, Subpart A, General Provisions, requiring that U.S. Government employees avoid appearances of, and never engage in, actual conflicts of interest.

DCCA EXHIBIT 6: March 14, 2013, e-mail to for Ms. Ariel Seeley, staff counsel to Elizabeth Dickinson, Chief Counsel FDA, from Affiant in which she obstructs justice by refusing to consider evidence of FDA wrongdoing offered to them by JOHN H. HNATIO as the FDA moved from the role of objective mediator to legal defense counsel for the FDA.

DCCA EXHIBIT 7: Affiant's March 2013, formal complaint to the National Ombudsman for Small Business that the FDA was violating the law.

DCCA EXHIBIT 8: June 20, 2014, letter from FDA to Affiant stating that Mr. Berkley extended lawyer-client privilege to the FDA employees alleged to have participated in the wrongdoing thereby engaging in an actual conflict of interest and the obstruction of justice.

DCCA EXHIBIT 9: Mr. Berkley's April 26, 2013, report of his investigation falsely stating that: 1) FoodQuestTQ LLC failed to cooperate in the investigation; 2) they could find no evidence of wrongdoing, and; 3) no laws were broken.

DCCA EXHIBIT 10: Affiant's original July 1, 2014, complaint to the D.C. Office of Bar Counsel against Mr. Dale D. Berkley, Esq., a licensed attorney practicing law in the District of Columbia.

DCCA EXHIBIT 11: September 10, 2014, complaint to the D.C. Office of Bar Counsel against Mr. Ms. Elizabeth Dickenson, a licensed attorney practicing law in the District of Columbia.

DCCA EXHIBIT 12: September 22, 2014, letter from the D.C. Office Bar Counsel to Affiant declining to pursue the allegations of unethical and criminal conduct against Mr. Berkley and Ms. Dickinson.

DCCA EXHIBIT 13: October 9, 2014, letter from Affiant to the Chairman, D.C. Board on Professional Responsibility expressing concerns that the D.C. Office of Bar Counsel is corrupt.

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DCAA EXHIBIT 21: Affiant received a January 22, 2015, letter from Chief Judge Washington informing him, "You may proceed on the well-founded assumption that the discipline authorities are acting with the utmost good faith in this matter."

DCAA EXHIBIT 22: On January 29, 2015, Affiant sent a letter to the DC Office of Bar Counsel making all of the information on the matter available including an exhaustive report prepared at the request of the Federal Bureau of Investigation (FBI) and all exhibits.

DCCA EXHIBIT 23: February 18, 2015, letter from Mr. Michael T. Gavin, Acting Deputy Assistant Director, Criminal Investigative Division, FBI, to Representative Chris Van Hollen (D/MD) stating that "Mr. Hnatio was advised by SBA and HHS that his claims were not

substantiated,” and, “...the FBI is unable to address all of the intellectual property fraud schemes that target our citizens...”

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DCCA EXHIBIT 25: Affiant’s March 3, 2015, letter to Michael E. Horowitz, Office of the Inspector General, U.S. Department of Justice, reporting serious violations of ethics and criminal laws by U.S. Government officials of the Food and Drug Administration and the Department of Health and Human Services.

DCCA EXHIBIT 26: April 20, 2015, letter from Mr. Shipp of the DCOBC refusing to investigate Affiant’s allegations and amassed evidence of unethical and criminal conduct by U.S. Government attorneys since they are, “entitled to defend their clients [sic] interests.”

DCCA EXHIBIT 27: On April 28, 2015, Affiant received a letter from the Department of Justice (DOJ) Office of Inspector General (OIG) stating that they considered the matter closed and would not be exchanging any further correspondence with HNATIO on the matter. The DOJ-OIG advised that the matter was referred to the FBI Inspection Division for review and that any further communications by the Affiant regarding the matter were to be directed to the FBI Inspection Division.

DCCA EXHIBIT 28: May 7, 2015, Constructive Notice (CN) served on the Acting Commissioner of the Food and Drug Administration, Dr. Stephen Ostroff, pursuant to §§ 1-308 (remedy) and 1-103 (recourse) under common law as codified by the Uniform Commercial Code.

DCCA EXHIBIT 29: May 8, 2015, letter to the Attorney General of the District of Columbia requesting an independent investigation of the possible corruption of the D.C. Office of Bar Counsel and the DC Board on Professional Responsibility.

DCCA EXHIBIT 30: May 18, 2015, letter to Affiant from the Chief Deputy Attorney General, Natalie O. Ludway, advising that her office had no authority to conduct an investigation and urging Affiant to seek legal counsel.

DCAA EXHIBIT 31: Memorandum for Record dated July 16, 2015, signed by the Affiant regarding a telephone conversation with FBI Special Agent Kimberly J. Sevin on July 15, 2015, informing Affiant that his complaint was misdirected by the DOJ-OIG and that her office had no authority to investigate the matter.