

Representative John Delaney  
1632 Longworth House Office Building  
Washington, DC 20515



Representative Rob Wittman  
2454 Rayburn House Office Building  
Washington, DC 20515

January 26, 2014

REF: Use of the Freedom of Information Act to Obstruct Justice at the Department of Health and Human Services (HHS) and the Food and Drug Administration (FDA FOIA Request 2014-92)

Dear Representatives Delaney and Wittman:

We are a small business located in Frederick, Maryland. Dr. John Hnatio is one of the owners of the business and lives in the 6<sup>th</sup> Congressional District of Maryland. Mr. Bruce Becker is also an owner of FoodQuestTQ LLC and lives in Stafford within the 1<sup>st</sup> Congressional District of Virginia.

To briefly recap our situation, we are a small company that is being forced out of business in the face of direct competition by the U.S. Government. The Department of Health and Human Services (HHS) and the Food and Drug Administration (FDA) are plagiarizing our research, pirating our patented ideas and stealing our trade secrets. Using this information the FDA has duplicated our products and is giving them away for free to industry. The FDA has “blacklisted” us with the food industry. As a direct result, the bottom has dropped out of our sales and we are being forced out of business.

Over the past several months we have filed several Freedom of Information Act (FOIA) requests for government records indicating the extent to which our small business is being “blacklisted” by the Department of Health and Humans Services (HHS) and the Food and Drug Administration (FDA).

In response to all of our FOIA requests the FDA has attempted to deceive us by intentionally withholding information, purposely limiting the scope of record searches to avoid disclosure of documents, and outright lying to us. All of these actions represent egregious violations of FOIA law.

The Office of General Counsel HHS is now claiming lawyer-client privilege to withhold from FOIA release any documents and e-mail correspondence to the food industry by the same FDA employees involved in duplicating our products in the first place. This, of course, dramatically escalates the seriousness of this matter by lending credence to the belief that employees of both HHS and the FDA are now conspiring to engage in the obstruction of justice.

The matter is of such concern to us that we have made the Inspector General of the Department of Health and Human Services, Mr. Dan Levinson, aware of the situation.

In the FDA’s latest tactic to prevent the release of information that would reveal the extent of the actions they have taken against us the FDA is now saying that they will not release documents, e-mails and other communications that would reveal the extent to which HHS and FDA employees have “blacklisted” our little company amongst government agencies and with the food industry in the

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absence of large cash payments to cover "processing fees." They have told us that we must provide them with a large "processing fee" by February 17, 2014, or they will simply close our file.

The FDA has already been made aware that FoodQuestTQ LLC has no money left to pay such large "processing" fees because HHS and the FDA have intentionally duplicated our products and "blacklisted" us in the U.S. Food industry making it impossible for us to sell our software. Although we are in the process of trying to find an attorney to represent us in court we currently cannot afford a lawyer to defend us against the actions being taken by the government and HHS and the FDA are fully aware of this fact.

We have sought relief from the large cash payments being levied on us by the FDA in the past under the FOIA appeals process based on the compelling need to make the public aware of the large scale fraud, waste and abuse that is currently taking place within the FDA. In our appeals we have made it clear to the FDA that we intend to publish the results of our inquiry under the status of a free-lance journalist. Dr. Hnatio is an accomplished writer with numerous articles, monographs and book contributions.

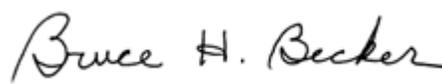
For the above reasons, we request your assistance in contacting the HHS-FDA to request the release of all requested records free of any processing charges pursuant to the current exemption processes that is already allowed under the FOIA. We would also appreciate it if you could directly contact Mr. Levinson to make certain that he is personally aware of the serious situation.

The way things stand now, agencies of the government that engage in serious wrongdoing can use the FOIA to withhold evidence of fraud, waste and abuse since small businesses being forced out of business cannot afford the large "processing fees" being charged by the government and the expense of hiring a lawyer to fight unreasonable FOIA request denials by corrupt agencies of the government. This certainly appears to be the case with HHS and the FDA.

We would also like to express our sincere thanks to Mr. Kevin Mack and Ms. Jamie Miller of your staffs for their support and assistance over the past months as we have struggled to keep our business afloat as we await the arrival of better times.



John Hnatio, EdD, PhD  
Chief Science Officer



Bruce Becker  
President

cc:

Senator Mikulski  
Senator Leahy  
Kathleen Sebelius, HHS  
Margaret Hamburg, FDA  
Brian Castro, SBA  
Dan Levinson, HHS-IG  
William Hall, HHS  
Sarah Kotler, FDA