

FREEDOM OF INFORMATION ACT REQUEST 6-27-2014

Director, News Division
Mary E. Switzer Building
U.S. Department of Health and Human Services
Room 2206
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Food and Drug Administration
Division of Freedom of Information
Office of the Executive Secretariat, OC
12420 Parklawn Drive
ELEM-1029
Rockville, MD 20857

June 27, 2014

SUBJECT: Spoliation of Evidence by the Food and Drug Administration (FDA) and the Department of Health and Human Services (DHHS)

FoodQuestTQ is a small computer software company being forced out of business by the Food and Drug Administration (FDA). The FDA duplicated a suite of computer software tools being commercially sold by FoodQuestTQ LLC. The action by the FDA to duplicate our computer software and then provide it free of charge to the food industry is forcing our small company out of business.

On May 28, 2014, we sent a letter to the Office of Government Information Services (OGIS) of the National Archives to inform them of potential violations of P.L. 89-554, 80 Stat. 378, 5 U.S.C. § 552 (Freedom of Information Act-FOIA) to obstruct justice in the matter of *FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration*.

On June 2, 2014, we received a letter from DHHS stating that FDA employees directly implicated in alleged Federal crimes were allowed to conduct searches of their own electronic records for documents releasable to us pursuant to the FOIA that may implicate the very same employees in the conduct of felonious crimes.

When confronted by FoodQuestTQ LLC with electronic records demonstrating that one FDA employee may have intentionally deleted or withheld official U.S. Government e-mails requested pursuant to the FOIA, DHHS and the FDA denied that any such records ever existed. The DHHS and FDA now contend that the electronic records we provided to them disproving their claims that no such documents ever existed are unreliable.

On June 19, 2014, we filed a Freedom of Information Act (FOIA) request with DHHS and the FDA pursuant to P.L. 89-554, 80 Stat. 378, 5 U.S.C. § 552 asking for an independent forensic “deep dive” into the current and archival FDA and DHHS computer databases to determine the degree of spoliation of the evidence. We requested that the Director OGIS oversee the integrity of the search. On June 25, we wrote a letter to the Baltimore Office of the FBI and informed them of the spoliation of evidence, asked them to intervene to prevent any further destruction of evidence and requested an investigation of the matter to determine if Federal laws are being violated.

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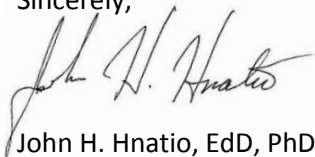
Based on the electronic records maintained by *Mail Chimp* we have prepared the table appearing below. The table shows that Ms. Leanne Jackson, a member of the FDA Food Defense Team, opened and or distributed documents related to the FoodQuestTQ LLC matter on 764 separate occasions over the period December 6, 2012 to March 8, 2014.

Name of Campaign	Number of Openings by Ms. Jackson	Date
Food Defense	55	6-Dec-12
C.A.R.V.E.R. + Shock According to an Army Special Forces Officer	32	25-Feb-13
The Answer to Food Fraud	20	17-May-13
FDA Using Projectioneering Intellectual Property	558	20-May-13
A Message to the Food Industry	9	9-Sep-13
FDA-TQ Information Memorandum to the Food Industry	35	12-Sep-13
Update to September 11, 2013 Information Memorandum	6	26-Sep-13
Information Memorandum	5	27-Nov-13
INFORMATION MEMORANDUM	7	21-Dec-13
INFORMATION MEMORANDUM 1/27/14	5	28-Jan-14
At the GFSI Conference Be Sure to Ask the FDA, "Who is John Hnatio?"	13	20-Feb-14
Application of Analytics to FoodQuestTQ LLC Updates to the Food Industry	9	22-Feb-14
Anticompetitive Conduct by the Department of Health and Human Services	5	25-Feb-14
Fighting Food Fraud: A Primer for the European Food Industry	5	8-Mar-14

In our most recent FOIA request of June 19, 2014, we requested an independent forensic "deep dive" into the current and archival FDA and DHHS computer databases to determine the degree of spoliation of the evidence. According to the electronic record above DHHS and the FDA must provide us with an electronic record showing each of Ms. Jackson's 764 openings of FoodQuestTQ LLC related documents and any and all resulting e-mail strings.

Anything less than a full accounting for each of Ms. Jackson's 764 openings of the subject documents as specified above serves as substantiation of the intentional spoliation of evidence of felonious crimes by DHHS and the FDA in order to obstruct justice. We are providing copies of this correspondence to the Director, FBI and the Director, OGIS.

Sincerely,



John H. Hnatio, EdD, PhD
Chief Science Officer

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cc:

Mr. Brian Castro, NOSB, SBA
Ms. Sylvia Mathews-Burwell, Secretary, DHHS
Mr. James Comey, Director, FBI
Mr. Stephen Vogt, FBI
Mr. Joseph Marinko, FBI
Ms. Miriam Nisbet, OGIS
Representative John Delaney, MD
Senator Chuck Grassley, IA
Representative Sam Graves, MO
Ms. Margaret Hamburg, Commissioner, FDA
Senator Mary Landrieu, LA
President Barack Obama, The White House
Senator Pat Leahy, VT
Mr. Daniel Levinson, OIG-DHHS
Representative John Mica, FL
Senator Barbara Mikulski, MD
Senator Paul Rand, KY
Mr. Brian Deese, Acting Director, OMB
Senator Mark Warner, VA
Representative Rob Wittman, VA
Mr. Walter Shaub, Director, OGE
Mr. William Hall, DHHS
Ms. Sarah Kotler, FDA
Ms. Leanne Jackson, FDA