

INFORMATION MEMORANDUM



TO: Distribution

SUBJECT: Update on the matter of *FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration*

DATE: January 27, 2014

PURPOSE

The purpose of this information memorandum is to keep the food industry apprised of current developments in the matter of *FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration*.

CURRENT STATUS

Since the time of our last update of December 20, 2013, there have been several important developments in the matter of *FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration*. These latest developments are outlined in Table 1, below.

Latest Developments
The Office of General Counsel of the Department of Health and Human Services has deemed the alleged theft of FoodQuestTQ’s intellectual property by FDA employees as protectable conduct by extending “lawyer-client” privilege to the FDA employees involved in duplicating FoodQuestTQ’s suite of computer software tools.
The FDA-Center for Food Safety and Nutrition (CFSAN) has repeatedly violated the Freedom of Information Act (FOIA) by attempting to deceive FoodQuestTQ in limiting the scope of document reviews for requested information, making false claims of exemption under the Freedom of Information Act (FOIA) and systematically lying in response to legitimate FoodQuestTQ requests for information under the FOIA.
The latest tactic being used by the FDA to prevent the proper release of documents and information pursuant to FoodQuestTQ requests is to charge FoodQuestTQ “processing fees” that we cannot afford to pay as the result of the HHS and FDA actions taken against us. FoodQuestTQ is appealing the matter.
The FDA is improperly lobbying Capitol Hill on the matter of <i>FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration</i> . For example, the FDA Congressional Affairs Office advised Congressional staff that they have done nothing illegal by stealing FoodQuestTQ LLC’s ideas and they intend to keep taking the proprietary work of FoodQuestTQ LLC without due process if it is for the common safety of the American food supply.

<p>When FoodQuestTQ LLC recently called the Congressional whistleblower hotline to report the gross fraud, waste and abuse taking place at the Department of Health and Human Services and the Food and Drug Administration a Congressional staff member advised that they were too busy to look into the matter, that they had no intention of taking any action to correct the situation and abruptly hung up the phone in our ears.</p>
<p>We recently learned that officials of the FDA and HHS conducted a “special” interview of one of our business partners. Right after the “special” government interview, the business partner in question terminated all relations with FoodQuestTQ.</p>
<p>On December 24, 2013, FoodQuestTQ requested that Senator Barbara Mikulski (we are a Maryland constituent) refer our case to Senator Leahy, Chairman of the Senate Judiciary Committee for investigation. We are still awaiting a response from Senator Mikulski if she will help her FoodQuestTQ constituent or not. It is possible that the very large footprint of the FDA as a constituent body in Maryland may be playing a factor in Senator Mikulski’s decision whether to assist our small business or not.</p>
<p>On January 15, 2014, we wrote directly to Inspector General Levinson at the Department of Health and Human Services (HHS) to report the existence of fraud, waste and abuse within both HHS and the FDA; violations of FOIA law, and; the possibility of obstruction of justice within both agencies. Included as part of the letter are a series of simple “yes” and “no” questions that when truthfully answered by the FDA and HHS will provide the baseline for determining based on fact and without prejudice of opinion the next steps that should be pursued in the matter of <i>FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration</i>. We have not heard from Inspector General Levinson whether he will investigate the matter pursuant to the referral by the National Ombudsman for Small Business.</p>

Table 1: Latest Developments in the Matter of *FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration*

UPDATED TABLE OF ALLEGED VIOLATIONS OF LAW

In a previous information memorandum dated May 18, 2013, we provided a table of the alleged violations of law in the Food and Drug Administration handling of the FoodQuestTQ matter. Significant developments in this case now call for updating that table of alleged government offenses pertaining to the matter of *FoodQuestTQ LLC versus the Department of Health and Human Services and the Food and Drug Administration*.

Alleged FDA or HHS Offense	Examples of Applicable Law, Statute or Regulation Violated
Unlawful lobbying of Congress by employees of the Executive Branch	Lobbying Disclosure Act (LDA) of 1995, as amended and other laws, status and regulations
Actual conflict of interest by the lead HHS counsel in his handling of the FoodQuestTQ matter	Title 18 USC and other laws and statues
Improper use of “lawyer-client” privilege to protect the criminal misconduct of government employees	
Intentional attempts by FDA-CFSAN officials to hide the existence of releasable documents and information	5 U.S.C. § 552
Intentional plagiarism and unauthorized use of privately owned copyrighted research by the FDA	Title 18 USC and other laws and statues
Theft of FoodQuestTQ trade secrets	
Patent infringement	
Direct competition with small business	FEDERAL ACTIVITIES INVENTORY REFORM ACT OF 1998 [[Page 112 STAT. 2382]] Public Law 105-270 105th Congress; OMB Circular A-76; OGE Requirements; FARS and other laws, statutes and regulations
Fraud, waste, mismanagement and abuse by the unnecessary government duplication of the same, similar or better products that were already available to the public at a fraction of the cost	Title 18 USC and other laws and statues
Collusion to commit the obstruction of justice by HHS and FDA employees	
Violations of the Federal Acquisition Regulations, the FAIR Act and OMB Circular A-76 as it pertains to the proper acquisition of non-inherent governmental products	FEDERAL ACTIVITIES INVENTORY REFORM ACT OF 1998 [[Page 112 STAT. 2382]] Public Law 105-270 105th Congress; OMB Circular A-76; OGE Requirements; FARS and other laws, statutes and regulations
The improper endorsement of private sector companies in violation of the FARS and Office of Government Ethics requirements	Office of Government Ethics requirements; Title 18 USC; FAR’s and other laws, statutes and regulations
The above listing of alleged violations of law, statute and regulation is not comprehensive; the alleged violations listed here are only provided as examples	

Table 2: Updated List of Alleged FDA and HHS Offenses

FDA UNAUTHORIZED USE OF FOODQUESTTQ INTELLECTUAL PROPERTY

In prior notifications, all addressees were cautioned to avoid future liability by refraining from the use of the FDA Food Protection Plan and the following five FDA tools that are currently accessible free of charge to the food industry at the FDA official government website, namely:

1. Food Defense Plan Builder
2. Food Defense Mitigation Strategies Database
3. iRisk
4. Food Related Emergency Exercise Boxed (FREE-B)
5. Post 2007 Updates to C.A.R.V.E.R. plus SHOCK

Table 3: FDA Tools in Dispute

FDA copyright infringement in the case of *FoodQuestTQ versus the Food and Drug Administration* includes the plagiarizing of FoodQuestTQ funded and copyrighted research as embodied in the CSM METHOD® and other research, patent infringement and theft of FoodQuestTQ LLC owned trade secrets that the FDA used to duplicate the following six FoodQuestTQ LLC commercial products, namely:

1. Food DefenseTQ (with TQ standing for Threat Quotient)
2. Food Defense Architect (FDAR)
3. Food Safety Architect (FSAR)
4. POISON Metadata Repository of Intentional and Unintentional Food Poisonings
5. Food Event Analysis and Simulation Tool (FEAST)
6. Food Response and Emergency Evaluation (FREE) Tool

Table 4: FoodQuestTQ Tools Duplicated by the FDA

CAUTION TO ALL PARTIES

Please be advised that any use of Projectioneering LLC and FoodQuestTQ LLC owned intellectual property, without the express written permission of Projectioneering LLC and FoodQuestTQ LLC will be considered by Projectioneering LLC and FoodQuestTQ LLC as the unauthorized use of Projectioneering LLC and FoodQuestTQ LLC owned intellectual property pursuant to Title 35, USC, Chapter 29, et seq.

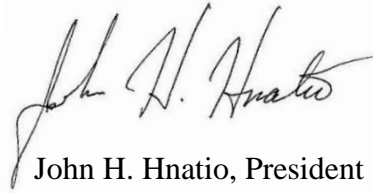
RECOMMENDATION TO AVOID FUTURE LIABILITY

To avoid future liability in this matter all parties should refrain from using the FDA Food Protection Plan or any of the five computer software tools listed in Table 1, above, since they contain the FoodQuestTQ LLC and Projectioneering LLC owned intellectual property in contention. In the event that Projectioneering LLC and FoodQuestTQ LLC prevail in this matter, any party that knowingly uses the above referenced FDA products can be held liable for infringement under 35 USC, Chapter 29, e seq. You can legally license, without fear of future

liability, products that provide the same capabilities as the FDA imitations by contacting FoodQuestTQ LLC.



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Date: November 27, 2013



John H. Hnatio, President
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Date: November 27, 2013

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cc:

Senator Mikulski
Senator Leahy
Senator Grassley
Representative Delaney
Representative Wittman
Secretary Sebelius, HHS
Commissioner Hamburg, FDA
Inspector General Levinson, OIG-HHS