

The Honorable Karl A. Racine, Esq.
Attorney General of the District of Columbia
441 4th Street, NW
Washington, DC 20001



May 8, 2015

VIA CERTIFIED MAIL


Dear Attorney General Racine:

We are writing this letter to you because of concerns relating to the ethical conduct of the D.C. Board on Professional Responsibility and D.C. Office of Bar Counsel in the discharge of their duties. The matter involves the failure to investigate serious allegations of unethical conduct by two very highly placed U.S. Government attorneys practicing law in the District of Columbia.

Please find attached a sworn affidavit of truth signed by me, Dr. John H. Hnatio, which sets forth my personal knowledge of the serious unethical actions of the two attorneys, the D.C. Board on Professional Responsibility and the D.C. Office of Bar Counsel's refusal to investigate. The affidavit of truth and all supporting exhibits are posted at the John Galt Program for Investigative Studies web site at: <http://www.jgpis.org>

Based on my affidavit of truth and the large body of evidence amassed in this case, I respectfully request that you, as the Attorney General of the District of Columbia, undertake an independent investigation of the unethical conduct of Ms. Elizabeth Dickinson, Esq. and Mr. Dale Berkley, Esq. We also request your independent investigation of the possible unethical conduct of the D.C. Board on Professional Responsibility and the D.C. Office of Bar Counsel in the handling of our complaints.

Sincerely yours,



John Hnatio, EdD, PhD
Chief Science Officer

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 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.

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 has filed numerous complaints against the attorneys involved in the alleged unethical conduct. These complaints have been 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 is registered to practice law in the State of New York. The Affiant has filed separate ethics charges in her case. Affiant believes that both the D.C. Board on Professional Responsibility and the D.C. Office of Bar Counsel are corrupted by not faithfully meeting their obligations to hold the two highly placed U.S. Government attorneys involved in this matter accountable for their unethical conduct.

AFFIDAVIT OF TRUTH - JOHN H. HNATIO

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 abandoned their duty of good faith and fair dealings and turned the matter 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 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 two highly placed U.S. government 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 DC Court of Appeals expressing concerns that the DC Board on Professional Responsibility and the DC 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 DC 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 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 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 April 20, 2015, JOHN H. HNATIO received a 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 23]
36. 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.

Affiant incorporates by reference a comprehensive report of investigation 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-two (35), above. The report dated November 28, 2014, entitled, "The Case of FoodQuestTQ" and 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.

//Original Signed and Notarized//

John H. Hnatio

County of: Frederick

State of: Maryland

Witnesseth the above signature affixed to this document on this day of May 8, 2015

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