

Ms. Yolanda V. Swift
Acting Ombudsman and Assistant Administrator
for Regulatory Enforcement Fairness
Office of the National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW (MC 2120)
Washington, DC 20416-0005



Via E-mail

May 1, 2013

Dear Ms. Swift;

Thank-you very much for your letter of April 18, 2013, regarding our complaint to the National Ombudsman for Small Business that the Food and Drug Administration (FDA) is using our intellectual property without permission, duplicating our commercial products and forcing us out of business.

On April 26, 2013, FoodQuestTQ LLC received the attached legal brief from the Office of General Counsel, Department of Health and Human Services (HHS) defending the actions of the FDA and their personnel as fully proper conduct that is allowable under the law.

We conducted an analysis of the HHS legal defense brief and identified several issues of concern that raise grave questions about the manner in which both HHS and the FDA have handled this matter. A copy of the FoodQuestTQ analysis is attached for your information.

Our analysis shows that the HHS legal defense brief is fundamentally flawed based on a conflict of interest by HHS the counsel who prepared the document. The analysis also raises the much more serious specter that both HHS and FDA employees engaged in obstruction of justice in their handling of the FoodQuestTQ matter. These and other issues are more fully described in the attached analysis of the HHS legal defense brief.

But the most significant concern we have in this entire matter is that both HHS and FDA personnel, from the lowest to the highest levels, have placed the defense of their own Agency's wrongdoing ahead of their sacred oaths to uphold the Constitution and the laws of the United States.

We want to thank-you very much for your strong support in this matter. As we shared with both Jose Mendez and Ellie Zahirieh of your staff, the Office of National Ombudsman has been our only friend in the government as we worked to try and resolve this matter. You must be proud of the hard work being done by your staff to help small businesses like ours. But, we recognize that your authority to do anything more for us at this juncture is very limited. Nonetheless, we owe you and your staff our sincere gratitude. Thank-you.

Sincerely,

John H. Hnatio
Chief Science Officer