

FREEDOM OF INFORMATION ACT REQUEST 6-19-2014

Director, News Division
Mary E. Switzer Building
U.S. Department of Health and Human Services
Room 2206
330 C Street S.W. Washington, DC 20201



Food and Drug Administration
Division of Freedom of Information
Office of the Executive Secretariat, OC
12420 Parklawn Drive
ELEM-1029
Rockville, MD 20857

June 19, 2014

This request is made pursuant to 5 USC §552 (Freedom of Information Act).

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 provide duplicate tools free of charge to the food industry has resulted in the bottom dropping out of FoodQuestTQ LLC commercial sales which is now forcing the small company out of business.

On June 2, 2014, we received a letter from Mr. William Hall, Director, News Division of the Department of Health and Human Services (DHHS) denying an appeal for the release of records that would demonstrate that the Food and Drug Administration (FDA) is engaging in a program of retaliation against our company for filing a complaint with the Small Business Administration (SBA).

Mr. Hall in his denial letter states that FDA employees directly implicated in potential fraud, waste and abuse and other crimes against FoodQuestTQ LLC are being allowed to conduct their own searches for electronic records that may implicate them in their own alleged crimes.

On at least five past occasions FoodQuestTQ LLC expressed concerns to DHHS and the FDA that their employees may be involved in the intentional obstruction of justice by failing to identify, illegally withhold and destroy documents requested under the FOIA that may implicate them in serious crimes.

Because of the DHHS and FDA intentional failure to properly calculate their approach to the collection of records requested by FoodQuestTQ LLC under P.L. 89-554, 80 Stat. 378, 5 U.S.C. § 552, it is now possible that damning evidence of DHHS and FDA fraud, waste and abuse and other criminal activities was intentionally destroyed or deleted from the electronic record by the same DHHS and FDA employees alleged to be implicated in the wrongdoing in the first place.

Under this FOIA request we are asking that the FDA and DHHS conduct an independent forensic “deep dive” into the current and archival FDA and DHHS computer databases to determine if Mr. Jody Menikheim, Mr. Jason Bashura, Ms. Leanne Jackson, Mr. Colin Barthel, Ms. Ariel Seeley and Mr. Dale Berkley have deleted any electronic records including e-mail and email strings that relate in any way to the matter of FoodQuestTQ LLC.

FoodQuestTQ LLC, 4720 Hayward Drive, Frederick, Maryland 21702 Telephone 240-439-4476 ext. 11

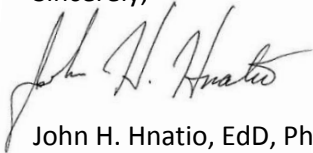
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As part of this FOIA request we seek copies of all e-mails and e-mail strings initiated, received, distributed and/or deleted by each of the above current or former employees of the U.S. Government that relate in any way to the matter of FoodQuestTQ LLC.

We are requesting expedited processing by the FDA and DHHS since the results of this request may indicate the existence of ongoing criminal activities within DHHS and FDA. The existence of possible criminal conduct involving employees responsible for the safety and security of the U.S. food supply represents a real and imminent threat to the safety of the U.S. public. We are also requesting that fees for providing the above information be waived based on the seriousness of the criminal allegations being made in this case and the compelling need for public disclosure of attempts to violate P.L. 89-554, 80 Stat. 378, 5 U.S.C. § 552 by both the FDA and DHHS.

Because of the seriousness of the DHHS and FDA miscalculation of a proper approach to collect records in the matter of FoodQuestTQ LLC pursuant to P.L. 89-554, 80 Stat. 378, 5 U.S.C. § 552, we are requesting the mediation assistance of the Office of Government Services (OGIS) to work with FDA and DHHS to henceforth oversee that the collection of all records requested under the FOIA that pertain in any way to the matter of FoodQuestTQ LLC be conducted with full transparency, honesty and integrity.

Sincerely,



John H. Hnatio, EdD, PhD
Chief Science Officer

cc:

Mr. Brian Castro, NOSB, SBA
Ms. Sylvia Mathews-Secretary, DHHS
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. William Hall, DHHS
Dr. Dale Berkley, OGC-DHHS

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Ms. Ariel Seeley, OCC, FDA
Mr. Jody Menikheim, FDA
Ms. Leanne Jackson, FDA
Mr. Colin Barthel, FDA
Mr. Jason Bashura, PEPSICO