

Mr. William Hall
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



January 18, 2014

REFERENCE: FOIA APPEAL No. 14-00048AA; FDA Case No. 2013-7493 and Control No. F13-9531

Dear Mr. Hall:

This letter is in response to our November 3, 2013, appeal for expedited processing in the above referenced case.

On January 13, 2014, we received a letter from Ms. Carol Maloney, Director, Division of FOIA Services, Department of Health and Human Services. The letter from Ms. Maloney states that the FDA responded to our request on November 15, 2013. The letter goes on to state that the Department of Health and Human Services has thus provided an expedited response to our request.

As you are aware, I filed an appeal (14-00068AA) regarding the Department of Health and Human Services (HHS) November 15, 2013, response. In that appeal I pointed out that HHS and FDA were not responsive to our original request. HHS-FDA (CFSAN) provided three general e-mails that were unrelated to our request. I was advised that there were no other records responsive to our request.

In our appeal we provided HHS with validated electronic records indicating that the statements made to us in the November 15, 2013, were patently untrue. We provided documented proof that Ms. Leanne Jackson; an FDA employee had, in fact, opened and or distributed the subject documents of interest more than 350 times.

We are still awaiting the documents we requested on November 3, 2013. This cannot be considered "expedited" processing of our request as implied by Ms. Maloney's letter of January 13, 2014.

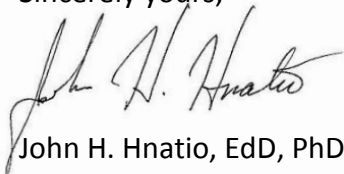
But, more importantly the failure to respond truthfully to our FOIA requests is becoming a disturbing pattern. In another more recent FOIA response (Control No.F13-9531) dated January 9, 2014, we were told that the Department of Health and Human Services does not collect, maintain or require any type of sign-up for the use of the FDA computer software tools that duplicate FoodQuestTQ products that are now being given away to the food industry by the FDA free of charge. The attached "screenshot" taken directly from the official FDA website demonstrates, yet again, that we are being lied to.

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

We are concerned that the FDA and the Department of Health and Human Services may be unlawfully using the FOIA as the means to shield the alleged unlawful actions involving fraud, waste and abuse in the FoodQuestTQ matter.

The withholding of responsive documents under false pretenses constitutes an egregious violation of the FOIA and could rise to the criminal level of obstruction of justice in the matter of FoodQuestTQ. Because of these grave concerns, we are providing a copy of this appeal directly to Mr. Daniel Levinson, the Inspector General of the Department of Health and Humans Services.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John H. Hnatio". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

John H. Hnatio, EdD, PhD
Chief Science officer

cc:

Mr. Dan Levinson
Carol Maloney
Ms. Patricia Gee