



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

APR 13 2017

Joshua James  
Bryan Cave LLP  
1155 F Street, NW  
Washington, DC 20004

Re: FOIA-2017-00266  
Herbalife redress

Dear Mr. James:

This is a second partial response to your request dated December 13, 2016 under the Freedom of Information Act seeking access to documents pertaining to the distribution of money pertaining to the Herbalife redress matter, specifically:

- Documents reflecting the date that funds were received by the FTC (Category 1);
- Documents discussing the distribution of funds, including any correspondence to/from the Commission discussing the distribution of funds (Category 2);
- Documents discussing the timing of any distribution of funds (Category 3);
- Documents discussing alternate potential uses of the funds (e.g., rather than consumer refunds using the money for consumer education) (Category 4); and
- Any other documents related to the use of the funds obtained from the Herbalife entities (Category 5).

As you may recall, we issued a partial response on February 8, 2017 granting you full access to one document responsive to Category 1. In that letter, we also advised you that did not locate any records responsive to Category 4.

We located approximately eight (8) pages of responsive records to Category 2. I am granting partial access to the records, or to six (6) pages. Portions of these pages fall within one or more of the exemptions to the FOIA's disclosure requirements, as explained below.

Some records are exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), because they are exempt from disclosure by another statute. Specifically, Section 21(f) of the FTC Act provides that information obtained by the Commission in a law enforcement investigation, whether through compulsory process, or voluntarily in lieu of such process, is exempt from disclosure under the FOIA. 15 U.S.C. § 57b-2(f), *see Kathleen McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63964 (D.D.C. April 13, 1981).

In addition, some responsive records constitute confidential commercial or financial information of third party businesses. This information is exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992). Moreover, because Section 6(f) of the FTC Act, 15 U.S.C. § 46(f),

prohibits public disclosure of this type of information, it is also exempt under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), which, as noted above, exempts from disclosure any information that is protected from disclosure under another federal statute.

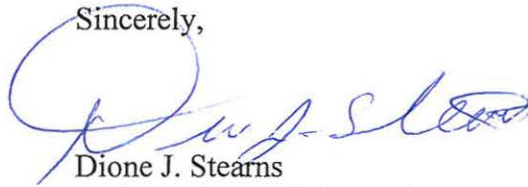
I am denying access to any personal information related to individual consumers. This information is exempt from release under FOIA Exemption 6, 5 U.S.C. § 552(b)(6), because an individual's right to privacy outweighs the general public's interest in disclosure of personally identifying information. *See The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

You also may seek dispute resolution services from the FTC FOIA Public Liaison Richard Gold via telephone at (202) 326-3355 or via e-mail at [rgold@ftc.gov](mailto:rgold@ftc.gov); or from the Office of Government Information Services via e-mail at [ogis@nara.gov](mailto:ogis@nara.gov), via fax at (202) 741-5769, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740.

If you have any questions about the way we are handling your request or about the FOIA regulations or procedures, please contact Shelley M. O'Hara at 202-326-2072.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dione J. Stearns", is written over a circular stamp or seal that is mostly obscured.

Dione J. Stearns  
Assistant General Counsel

Attachments  
PDF document (6 pages)