



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20540

APR 13 2017

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

Re: FOIA-2017-000200
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 relating to the use of the funds obtained from the redress claims (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 we did not locate any records responsive to Category 4.

We located approximately eight (8) pages of responsive records. In granting partial access to the records, six (6) pages of these records fall within one or more of the exemptions to the FOIA, including, but not limited to, the following:

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, including through the use of subpoenas issued by the Commission, is exempt from disclosure under the FOIA, 15 U.S.C. § 57b-2(c). See *McDermott*, FTC, 1981-1 Trade Cas. (CCH ¶ 61,424).

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 Proj.*, 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 under 5 U.S.C. § 552(b)(3), which, as noted above, is also protected from disclosure under another federal statute.

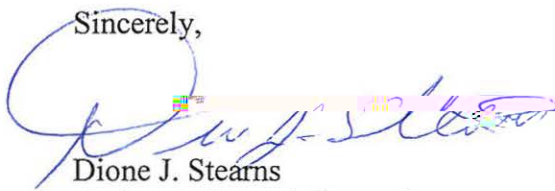
I am denying your request for this information because the information is exempt from release under FOIA Exemption 6, 5 U.S.C. § 552(b)(6), which prohibits the disclosure of information that would identify a confidential source of information. See, e.g., *Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

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

You may seek dispute resolution services from the FTC FOIA Help Line, Richard Gold, via telephone at (202) 326-3355 or via e-mail at rgold@ftc.gov; or from the Office of Government Information Services via e-mail at ogis@nara.gov, via fax at (202) 741-5792, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, Adelphi, MD 20783.

If you have any questions about this response, please contact the FTC FOIA Help Line at (202) 326-3355.

Sincerely,



Dione J. Stearns
Assistant General Counsel

Attachments
PDF document (0 pages)