

The USDA and its administrative board, the American Egg Board (AEB), exceeded their mandate and violated 5 laws in a coordinated, well-funded, 2-year+ campaign to halt the growth of Hampton Creek.

Hampton Creek is called a “major threat” and a “crisis.”

LAWS VIOLATED BY THE USDA'S AEB

- 1 7 U.S.C.A. § 2707
No funds collected by the Egg Board under the order shall in any manner be used for the purpose of influencing governmental policy or action.
- 2 U.S.C. § 2706
Must be “directed towards increasing the general demand” for eggs and egg products.
- 3 U.S.C. § 2707(c)
Must be “approved by the Secretary before becoming effective.”
- 4 16 C.F.R. 255.5
Disclosure of any material connection between the endorser (i.e., blogger) and the sponsored advertiser (i.e., Egg Board).
- 5 AMS guidelines, Section IX.D
AMS will disapprove any advertising considered disparaging or those that depict other commodities in a negative or unpleasant light via either overt or subjective video, photography, or statements (excluding those that are strictly comparative).

KEY PEOPLE



Joanne Ivy

*President/CEO,
USDA's AEB*



Anthony Zolezzi

*External Contractor/
Sustainability Consultant*



Mike Sencer

*Executive Vice President,
Hidden Villa Ranch*



Mitch Kanter

*Executive Director,
USDA's AEB, Egg Nutr. Cent.*



Kevin Burkum

*SVP Marketing,
USDA's AEB*

Roger Glasshoff

USDA

John Howeth

*SVP Foodservice Marketing,
USDA's AEB*

Howard Magwire

*Head of Government Relations,
United Egg Producers*

Chad Gregory

*President/CEO,
United Egg Producers*

The following was obtained from a Freedom of Information Act (FOIA) request.



1

USDA's American Egg Board called the growth of Hampton Creek a “major threat” and a “crisis.”

The following are emails between AEB's CEO Joanne Ivy, Edelman, and other AEB executive officers.

From: Joanne Ivy [<mailto:Jivy@aeb.org>]
Sent: Tuesday, August 20, 2013 3:33 PM
To: Maher, Missy; Jensen, Elizabeth (Schreiber); Schaffner, Serena
Cc: John Howeth; Elisa Maloberti; Mitch Kanter; Kevin Burkum; Kristin Livermore; Tia Rains
Subject: RE: Beyond Eggs

Missy, I am getting a lot of emails about this product from egg producers and further processors. The further processor considers this a serious threat to their business. I have met with John, and we think it would be a good idea if Edelman looked at this product as a crisis and major threat to the future of the egg product business and provide some advice and input as to how we should address this situation. I was wondering if we should hold a conference call this week to discuss or if Edelman would like to give some thought to the situation and get back to me about how you would like to present your recommendations and move forward. I realize this is an egg product issue, but I respect Edelman's expertise in a crisis situation. I am feeling this is turning into a crisis!

Most of the emails I am getting are similar to this one, "What are we doing at AEB with regard to this competing product??" We need to have an answer! Joanne

2

USDA and its administrative board, the AEB, unsuccessfully lobbied the FDA to go after Hampton Creek

The following are emails between the USDA's Roger Glasshoff, the AEB's CEO Joanne Ivy, other AEB executive officers, and Howard Magwire, UEP's Head of Government Relations (formerly of USDA).

LAWS VIOLATED BY USDA's AEB

7 U.S.C. § 2707(c)

Must be “approved by the Secretary before becoming effective.”

7 U.S.C.A. § 2707

No funds collected by the Egg Board under the order shall in any manner be used for the purpose of influencing governmental policy or action.

U.S.C. § 2706

Must be “directed towards increasing the general demand” for eggs and egg products.

From: Kevin Burkum
Sent: Thursday, January 09, 2014 11:37 AM
To: John Howeth
Cc: Joanne Ivy
Subject: FW: Eggs and GMO

Hi John. Please see email trail below regarding challenging Just Mayo's labeling claims with FDA.
Happy to discuss further if you have any questions.

Kevin Burkum | *Senior Vice President of Marketing*

American Egg Board

O 847.296.7043 | D 224.563.3702 | F 847.296.7007
PO Box 738, 1460 Renaissance Drive, Park Ridge, IL 60068
IncredibleEgg.org AEB.org



The information provided in this email is confidential and proprietary to the American Egg Board. The unauthorized use or disclosure is prohibited.
If you have received this email in error, please advise the sender, and delete it from your computer.

From: Joanne Ivy
Sent: Thursday, January 09, 2014 11:34 AM
To: Kevin Burkum
Cc: Mitch Kanter
Subject: RE: Eggs and GMO

Yes, let's forward this information to John. Cc me. It also does not meet the standard of identify for mayonnaise. I realize they call it Mayo. And, there are a few other things that is misleading, which I think can be challenged. Joanne

From: Glasshoff, Roger - AMS [<mailto:Roger.Glasshoff@ams.usda.gov>]
Sent: Thursday, January 09, 2014 10:21 AM
To: Kevin Burkum
Subject: RE: Eggs and GMO

I would forward the information to the FDA District Office responsible for the location where the product was marketed. I believe that many labels currently in commerce do not comply with FDA's labeling policy. FEEDA needs to issue a notice to the industry as the terminology "non-GMO" is utilized throughout the food industry. In fact, I believe that the organic producers assume that all certified product can be declared "non-GMO." I understand that FSIS, USDA, is currently discussing the labeling of organic beef as "non-GMO" with the National Organic Program, AMS.

From: Joanne Ivy
Sent: Thursday, January 09, 2014 11:24 AM
To: Kevin Burkum
Cc: Mitch Kanter
Subject: RE: Eggs and GMO

Okay, let's do it, but I have more concerns. Let's discuss first.

Joanne C. Ivy, CAE | *President & CEO*

American Egg Board

O 847.296.7043 | D 224.563.3701 | C (b) (6)
PO Box 738, 1460 Renaissance Drive, Park Ridge, IL 60068

IncredibleEgg.org AEB.org

"Okay, let's do it, but I have more concerns.

-Joanne Ivy, AEB CEO

3

The USDA's AEB attempted to block Just Mayo™ distribution at Whole Foods. Whole Foods did the right thing (not surprising).

The following are emails between the AEB's CEO Joanne Ivy, the AEB's SVP of Marketing Kevin Burkum, the United Egg Producers' CEO Chad Gregory, and external contractor Anthony Zolezzi.

LAWS VIOLATED BY USDA's AEB

7 U.S.C. § 2706(a); 7 C.F.R. § 1250.341(e)

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7 U.S.C. § 2707(g)

The law requires that any contracts or agreements for program activities provide that they "become effective upon the approval of the Secretary."

From: Joanne Ivy
Sent: Tuesday, December 17, 2013 9:04 AM
To: Kevin Burkum
Cc: John Howeth; Mitch Kanter
Subject: RE: Just Mayo

Thanks. I am saving that info. As you know, Anthony said he could block having Just Mayo sold at Whole Foods. Joanne

Joanne C. Ivy, CAE | President & CEO

American Egg Board

O 847.296.7043 | D 224.563.3701 | C (b) (6) PO Box 738, 1460 Renaissance Drive, Park Ridge, IL 60068

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If you have received this email in error, please advise the sender, and delete it from your computer.

-----Original Message-----

From: Kevin Burkum

Sent: Tuesday, December 17, 2013 8:02 AM

To: Joanne Ivy

Cc: John Howeth; Mitch Kanter

Subject: RE: Just Mayo

From: Joanne Ivy [<mailto:JIvy@aeb.org>]
Sent: Tuesday, December 03, 2013 9:01 AM
To: Chad Gregory
Subject: FW: Beyond Eggs


I was going to see what Kevin thought about following up on Anthony statement, but I sent to you first. So, please provide Anthony's contact information. I will go ahead and ask him to make the call. Thanks. Joanne

From: Joanne Ivy
Sent: Tuesday, December 03, 2013 7:58 AM
To: 'Chad Gregory'
Subject: Beyond Eggs

Kevin, I was thinking about writing Chad and cc those attending the meeting who would remember Anthony's statement. See below. Actually, if Anthony can prevent Beyond Eggs on the shelves, it would be worth it. He said he would do it, but he probably assumed that we would pay him for it. Although, he just said he would make the call – no fee mentioned. What if I sent the following to Chad?

Chad, The article on Beyond Eggs in your November 22 United Voices reminded me of a comment made by Anthony at the meeting with Tom Hall. Although it was first publicized that Whole Foods had the Beyond Eggs' *Just Mayo* on their shelves. They are now saying it will be fall. According to Anthony, it would only take a single call to Whole Foods to have them not take the Mayo . Anthony said he would make that call. However, I feel sure he wants to be paid for doing it. If it is that easy, I will contact Anthony and remind him to make the call unless his price is too steep.

“Anthony said he would make that call. However, I feel sure **he wants to be paid** for doing it. If it is that easy...”
-Joanne Ivy, AEB CEO



Lutton, Sara - AMS

From: Joanne Ivy
Sent: Tuesday, December 03, 2013 11:03 AM
To: 'AZ'
Cc: Chad Gregory; Kevin Burkum
Subject: RE: Whole Foods & Beyond Eggs

Thanks. This is very much appreciated. Joanne

From: AZ [<mailto:anthony@azolezzi.com>]
Sent: Tuesday, December 03, 2013 9:54 AM
To: Joanne Ivy
Cc: Chad Gregory; Kevin Burkum
Subject: Re: Whole Foods & Beyond Eggs

Joanne will do -- great to meet you, look forward to being able to work with you in the future -- AZ

Anthony Zolezzi
562-413-5646

On Dec 3, 2013, at 6:54 AM, Joanne Ivy <jivy@aeb.org> wrote:

Good morning Anthony, It was a pleasure to meet you, Tom, and your associates at the meeting on November 20. I thought it was a good meeting. A lot of thoughts and ideas were presented in the 3 ½ hour meeting, and we are still reviewing some of the ideas. As you were not aware, AEB has already done or is doing many of the ideas that were pitched, but I know that there are some ideas that we are interested in discussing further with Hall Worldwide.

In the meantime, I want to follow up on an offer you made at the meeting when we were discussing Beyond Eggs. You said that you could make a telephone call to Whole Foods to guarantee that they would not sell Beyond Eggs' *Just Mayo*. It was first publicized that Whole Foods had the Beyond Eggs' *Just Mayo* on their shelves, but we have checked and it is not currently available yet. They are now saying it will be fall. So, I would like to accept your offer to make that phone call to keep *Just Mayo* off Whole Foods shelves. Thank you in advance for placing the call to Whole Foods.

We will be getting back in to touch with Tom in the coming weeks to discuss further some of his thoughts. Joanne

“I would like to accept your offer to make that phone call to keep *Just Mayo* off Whole Foods shelves.”

-Joanne Ivy, AEB CEO

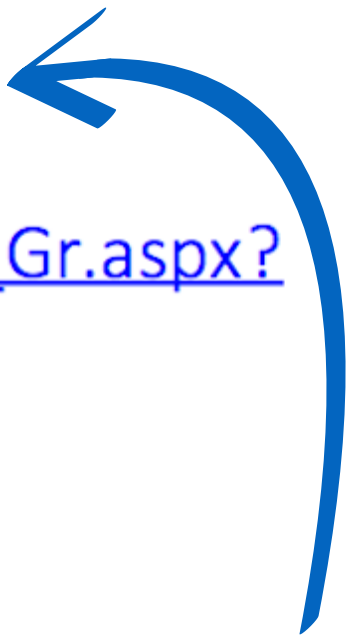


From: Elisa Maloberti
Sent: Thursday, December 19, 2013 8:57 AM
To: John Howeth
Subject: Whole Foods to drop Chobani Yogurt from their stores in 2014

If we can prove that the plant-based ingredients in Beyond Eggs are GMO, maybe Whole Foods would take notice and take action against Beyond Eggs like they've done to Chobani Yogurt. According to an article in Food Business News “Whole Foods Market challenged its Greek yogurt suppliers to create unique options for shoppers to enjoy — including exclusive flavors, **non-G.M.O. options** and organic choices.” Imagine the PR buzz that can be created if Whole Foods was on our side...

http://www.foodbusinessnews.net/articles/news_home/Consumer_Trends/2013/12/Whole_Foods_to_drop_Chobani_Gr.aspx?ID=%7b0AA1215D-C547-4FB5-BD52-704EF4E25047%7d&e=emaloberti@aeb.org

Elisa Maloberti | *Director of Egg Product Marketing*
American Egg Board
O 847.296.7043 | D 224.563.3711
PO Box 738, 1460 Renaissance Drive, Park Ridge, IL 60068
AEB.org IncredibleEgg.org



“Imagine the PR buzz that
can be created if Whole
Foods was on our side..,”
-Elisa Maloberti, Director of
Marketing, AEB

4

The USDA's AEB, the egg industry, and Unilever strategized about stopping Hampton Creek.

The following are emails that include AEB's CEO Joanne Ivy, SVP of Marketing Kevin Burkum, SVP of Foodservice Marketing John Howeth, and Director of Marketing Serena Schaffner.

LAWS VIOLATED BY USDA's AEB

7 U.S.C.A. § 2707

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7 U.S.C. § 2707(c)

Must be approved by the Secretary before becoming effective.

7 U.S.C. § 2706(a)

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From: Joanne Ivy
Sent: Friday, November 21, 2014 9:24 AM
To: Serena Schaffner
Cc: John Howeth; Kevin Burkum
Subject: Re: American Egg Board Follow Up

Great. I just wanted to make sure you had what you needed. Your response is good -- and accurate! Thanks for handling.

Oh, I believe I mentioned in an email yesterday that the counsel from Unilever called. If not, I am mentioning it now. I believe I provided him some basic information that was helpful, but let him know that AEB cannot make statements that would support Unilever's position. Joanne

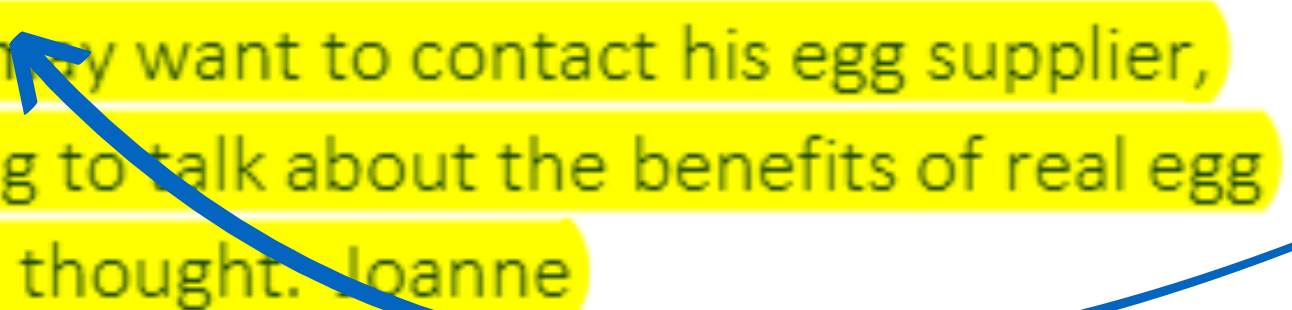
Sent from my iPhone

“...the counsel from Unilever called....I believe I provided him some basic information that was helpful.”
-Joanne Ivy, AEB CEO



On Thu, Nov 20, 2014 at 10:52 AM, Joanne Ivy <JIvy@aeb.org> wrote:

Howard: I just got off the phone with a guy working with the Unilever case with Hampton Creek. He wanted me to say that we supported Unilever in this lawsuit against Hampton Creek, but I told him that we could not take a position. However, since the regulation requires egg in mayo and their product does not, I said that they should make sure that FDA is aware to address this situation. I feel sure they are aware, but maybe they need to be pushed. He also asked for a spokesperson and I said that we are not able to provide a spokesperson, but he may want to contact his egg supplier, because possibly someone with that company would be willing to talk about the benefits of real egg in mayo and false advertising with a none egg product. Just a thought. Joanne



“I just got off the phone with a guy working with the Unilever case with Hampton Creek...I said that they should make sure that FDA is aware to address this situation. **I feel sure they are aware, but maybe they need to be pushed.**”

-Joanne Ivy, AEB CEO

5

The USDA's AEB and the egg industry threatened Hampton Creek's CEO.

The following are emails between the USDA's AEB and US egg producers.

LAWS VIOLATED BY USDA's AEB

Threats of violence violate numerous state and federal laws.

From: Mike Sencer <msencer@hiddenvilla.com>
Sent: Friday, October 31, 2014 11:59 AM
To: Debbie Murdock
Cc: Arnold Riebli (ariebli@nucalfoods.com); Steve Gemperle (sgemperle@gemperle.com); Gary West (gwest@jswest.com); gfooster@scegg.com; Joanne Ivy; Chad Gregory (chaduep@unitedegg.com)
Subject: Re: Disruptors in 2014: Hampton Creek Foods - Comments on Chickens and eggs

Can we pool our money and put a hit on him?


“...put a hit on him?”
-Mike Sencer, EVP Hidden Villa



From: [Mitch Kanter](#)
To: [Kevin Burkum](#)
Subject: RE: More Beyond Eggs Love
Date: Tuesday, December 03, 2013 5:08:37 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

In the meantime, you want me to contact some of my old buddies in Brooklyn to pay Mr. Tetrick a visit?

“...you want me to contact
some of my old buddies in
Brooklyn to pay Mr. Tetrick a
visit?”
-Mitch Kanter, EVP AEB



6

The USDA's AEB hired Edelman, the world's largest crisis management firm, to lead a campaign against Hampton Creek.
The USDA approved their key messages.

LAWS VIOLATED BY USDA's AEB

7 U.S.C. § 2706(a); 7 C.F.R. § 1250.341(e)

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From: Englert, Jenny [mailto:Jenny.Englert@edelman.com]

Sent: Wednesday, January 29, 2014 10:35 AM

To: Mia Roberts

Cc: Joanne Ivy; Kevin Burkum; Kristin Livermore; John Howeth; Mitch Kanter; Maher, Missy; Liuzzi, Andrew; Jensen, Elizabeth (Schreiber); Grosshandler, Jennifer; Schaffner, Serena; Burch, Kellie

Subject: Beyond Eggs Blogger Key Messages

Hi Mia,

As promised, we've pulled together the below key messages (USDA approved) that we'll be asking our Beyond Eggs bloggers (full list below) to weave into their blog posts. As you may recall, their posts will encourage their readers to make a conscious decision to choose real and sustainable foods, like eggs, on their path to a healthier lifestyle.

Once we receive your approval on these messages, we'll reach out to our bloggers to begin posting, beginning next week and update you at the end of each week on our progress. In the meantime, let us know if you have any questions.

Best,
Jenny

EXHIBIT [E]

American Egg Board and Edelman
STATEMENT OF WORK
PROJECT NAME: BEYOND EGGS OUTREACH
November 1, 2013 –January 31, 2014

Pursuant to the Agreement by and between The American Egg Board ("Client") and Daniel J. Edelman, Inc., doing business as Edelman ("Edelman") dated September 1, 2006, this Statement of Work is incorporated into and subject to the terms and conditions of the Agreement. The parties agree to the below Scope of Services and financial terms:

SCOPE OF SERVICES

Overview

Edelman supports the American Egg Board's (AEB) Beyond Eggs outreach program from November 1, 2013 – January 31, 2014. The partnership includes providing strategic counsel, media outreach and monitoring and blogger relations in regards to Beyond Eggs.

Deliverables/Milestones & Timeline

Program Element	Activities	Start & End Dates	Est. Fees	Est. Expenses	Est.Total
WSJ and HuffPo Letters to the Editor	Strategic counsel to date, drafting, editing, submitting and follow up of (2) Letters to the Editor submissions to WSJ and Huffington Post	November 1, 2013-January 31, 2014	\$5,500	As incurred	\$5,500
Media Relations, Monitoring and Follow-Up	Real-time response to Beyond Eggs coverage; following up with top 25 print food, features and health reporters; monitoring and reporting.		\$5,000	As incurred	\$5,000
Blogger Relations	Research and negotiations with 5-10 key influential bloggers in food and health/nutrition space, drafting key messaging and coordinating posts. Includes OOPs for sponsored post partnerships with bloggers		\$18,000	\$15,000	\$33,000

AEB/Edelman Contract

7

USDA's AEB paid bloggers to discredit Hampton Creek.

The USDA's AEB hired Edelman, the world's largest crisis management firm, to lead a campaign against Hampton Creek.

LAWS VIOLATED BY USDA's AEB

7 U.S.C. § 2706(a); 7 C.F.R. § 1250.341(e)

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16 C.F.R. 255.5

Disclosure of any material connection between the endorser (i.e., blogger) and the sponsored advertiser (i.e., Egg Board).

7 U.S.C. § 2707(g)

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Date: December 6, 2013

To: AEB

From: The Edelman AEB Team

Re: **Beyond Eggs Blogger Recommendations**



To support the Beyond Eggs outreach, we recommend working with a mix of influential food and registered dietitian bloggers (five to ten) to showcase the benefits of eating all-natural eggs. Please see below for our recommended approach along with bloggers we recommend engaging (in order of preference).

Approach

Engage five to ten food and registered dietitian bloggers to publish content on the many benefits of eggs to generate buzz and awareness for all-natural eggs versus egg replacers. We want to reach a lot of consumers with our messaging, so the goal is to secure participation from influential bloggers with large followings on their blogs and social channels. Because the influencers outlined below have a large footprint, they may ask for higher compensation so we will need to gauge their fees to determine exactly how many bloggers we can support within the budget of \$7,500 to \$10,000.

Blogger Roles/Responsibilities

- Each blogger will publish one blog post that will include the following key messages:
 - Eggs are all-natural and packed with a number of nutrients, including high-quality protein. The quality of egg protein is so high that scientists often use eggs as the standard for measuring the protein quality of other foods.
 - Egg farmers work hard to provide safe, nutritious food while maintaining the highest quality care for their hens. Today's hens are producing more eggs and living longer due to better health, nutrition and living environment.
 - Egg production today uses fewer resources and produces less waste. A new Egg Industry Center study shows the industry has decreased greenhouse gas emissions by more than 70 percent and uses 32 percent less water over the past 50 years.
 - At an average of just 15 cents apiece, eggs are the most affordable source of high-quality protein.
- Each blogger will Tweet 1-2 times; @IncredibleEggs will retweet. Tweets may include:
 - Links to the blog posts
 - Egg recipes
 - Nutrition nuggets
- Each blogger will post to Facebook 1-2 times. Facebook posts may include:
 - Links to the blog posts
 - Hashtag #TeamEggs
- All social media posts should use the hashtag #TeamEggs

Assets

We will share the following assets with each blogger:

- Environmental fact sheet and infographic
- Holiday fails/fixes list

8

The USDA's AEB attempted to become a member of the American Association for Sauces and Dressings for lobbying purposes.

..... **LAWS VIOLATED BY USDA's AEB**

7 U.S.C.A. § 2707

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U.S.C. § 2706

Must be “directed towards increasing the general demand” for eggs and egg products.

American Egg Board
Check Request Form

Date:

August 02, 2012

Voucher Number:

Issue Check To:

Association for **Dressings** & Sauces

Check Stub Description

Annual Membership Dues

Check Detail:

Amount

Annual membership dues for Association of **Dressings** & Sau...

\$1,206.00

Total \$

\$1,206.00

Account Name:

MEMBERSHIPS & SUBSCRIPTIONS

Account Number:

38-830-10

From: Knight, Jacque [<mailto:JKnight@kellencompany.com>]
Sent: Tuesday, August 14, 2012 11:02 AM
To: Elisa Maloberti
Cc: Milewski, Jeannie; Smith, Donna
Subject: Membership with The Association for Dressings & Sauces (ADS)

Good morning, Elisa,
I hope this finds you well!

I was surprised to see your membership application and dues submission come through late last week! Unfortunately, as I noted to you in our phone conversation, because you don't actually fall into either category of membership (Manufacturer or Supplier), a conversation needed to be held with our Executive Director and possibly our Board. It has been determined that further input from our Board will be required and that discussion won't take place until October. Depending on how the Board wants to accommodate this potential new category of membership, it may be as late as the new year before we have resolution. As such, I have put in a check request to refund your payment.

I understand you are out of the office this week, but wanted you to be aware of the situation upon your return. I will circle back around when I have news for you.

Best regards,

Jacque Knight

Manager, Membership & Administration

The Association for Dressings & Sauces

1100 Johnson Ferry Road, Suite 300

Atlanta, GA 30342

From: Elisa Maloberti [<mailto:EMaloberti@aeb.org>]
Sent: Friday, August 17, 2012 9:40 AM
To: Knight, Jacque
Cc: Milewski, Jeannie; Smith, Donna; John Howeth (jhoweth@ioillc.com)
Subject: RE: Membership with The Association for Dressings & Sauces (ADS)

Hello Jacque,
Thanks for your thorough reply.
Would it be possible to for me to attend the October 2012 meeting as a guest?

Elisa Maloberti

Director of Egg Product Marketing
American Egg Board
Box 738
Park Ridge, IL 60068
emaloberti@aeb.org
224-563-3711 direct dial

The following are agencies, entities, and companies listed in the disclosure.

USDA



incredible!



American Egg Board

The American Egg Board is an administrative board of the USDA

