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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
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Washington, DC 20515-6115

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July 25, 2007

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The Honorable Andrew C. von Eschenbach, M.D.
Commissioner
Food and Drug Administration
Department of Health and Human Services
5600 Fishers Lane
Rockville, MD 20857

Via email and fax

Dear Dr. von Eschenbach:

We wish to bring to your attention a matter of the utmost seriousness. Despite your personal assurance to this Committee, offered under oath, that you would not countenance retaliation against Food and Drug Administration (FDA) employees testifying before Congress, one of your senior staff immediately began a campaign of intimidation and retaliation against FDA witnesses who appeared at our July 17, 2007, hearing. Attached is a message the Assistant Commissioner for the Office of Regulatory Affairs (ORA), Margaret Glavin, sent to all ORA employees on July 19, 2007, just two days after the hearing in which she appeared with you to answer questions regarding her plan to reorganize FDA field operations.

Instead of addressing the legitimate concerns of FDA employees who informed the Committee of defects in the scheme to shut down needed laboratory facilities and divorce vital inspection and compliance functions from the field offices, Ms Glavin chose to attack the testimony of her own employees. Her e-mail mischaracterizes the testimony of FDA employees in an apparent attempt to deflect criticism of her own acts and to incite their coworkers and other FDA employees against them. Ms. Glavin's central message appears to be that dissent within the ranks will not be tolerated. This is tantamount to retaliation for her employees' sworn testimony to Congress. As such, it is a clear violation of your policy to protect the right of FDA employees to express dissenting opinions to Congress, as enunciated in your testimony before us on March 22, 2007, and in a letter to the Ranking Member of the Subcommittee, Mr. Whitfield, on June 11, 2007.

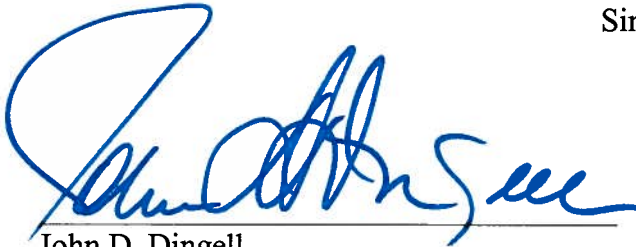
The Honorable Andrew C. von Eschenbach, M.D.

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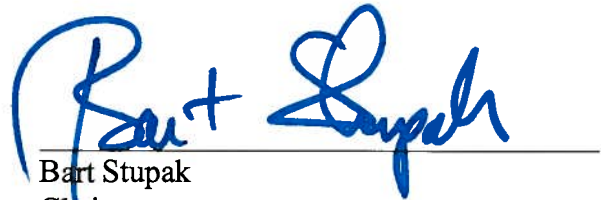
Ms. Glavin's actions clearly violate your stated policy and FDA regulations. Moreover, her actions may violate Federal law prohibiting anyone from interfering with the right of a Federal employee to provide information to Congress. The question, now, is what you, as FDA Commissioner, are going to do in response to Ms. Glavin's contumacious conduct: At a minimum, we expect you to publicly disavow the attached e-mail and discipline Ms. Glavin, and evaluate her future in the position of directing FDA field staff.

Again, we ask that you give this matter your immediate attention, and inform us of your action within the week.

Sincerely,



John D. Dingell
Chairman



Bart Stupak
Chairman
Subcommittee on Oversight and Investigations

Attachment

cc: The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce

The Honorable Ed Whitfield, Ranking Member
Subcommittee on Oversight and Investigations