

ONE HUNDRED SEVENTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

March 22, 2022

Mr. Eduard Kirakosyan  
President and Chief Executive Officer  
Daddy's Vapor Distro, Inc.  
15540 Roxford Street  
Sylmar, CA 91342

Dear Mr. Kirakosyan:

Pursuant to Rules X and XI of the House of Representatives, the Committee on Energy and Commerce is examining the public health implications of electronic nicotine delivery systems (ENDS), including ENDS using synthetic nicotine. It is deeply concerning to witness the rise of flavored, synthetic nicotine vaping products, which threatens to undermine the work that public health experts, advocates, and Congress has done to end the youth vaping epidemic. In furtherance of this goal, I write to request information regarding Daddy's Vapor Distro, Inc.'s (Daddy's Vapor) research pertaining to the safety and public health impact of its products, the company's marketing practices, and its role in the promotion of vaping use by adolescents under the age of 21.

On May 10, 2016, the Food and Drug Administration (FDA) published a final deeming rule to regulate all tobacco products, including ENDS such as e-cigarettes.<sup>1</sup> The final rule requires any new tobacco product to submit a premarket tobacco application (PMTA) and undergo FDA premarket review. In the years following the publication of the final deeming rule, the submission deadline to file PMTAs changed several times due to extensive legal action and other delays. However, ultimately, a Federal Court set September 9, 2020, as the PMTA deadline for new tobacco products on the market as of August 8, 2016. Any new tobacco product that was not on the market as of August 8, 2016, is required to submit a PMTA and receive a marketing authorization from FDA prior to marketing the product.<sup>2</sup>

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<sup>1</sup> Food and Drug Administration, *Deeming Tobacco Products to be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products*, 81 Fed. Reg. 28973 (Aug. 8, 2016) (final rule).

<sup>2</sup> Food and Drug Administration, *Extension of Certain Tobacco Product Compliance Deadlines Related to the Final Deeming Rule; Guidance for Industry; Availability*; 82 Fed. Reg. 37459 (Aug. 10, 2017) (notice of availability).

Daddy's Vapor was incorporated in 2016 as a distributor of e-liquids and has since added a number of e-liquid brands to its portfolio.<sup>3</sup> Following FDA's deeming rule, Daddy's Vapor appeared to comply with the PMTA process and by April 16, 2021, submitted 41 branded flavors for PMTA review. However, FDA issued marketing denial orders (MDOs) for all Daddy's Vapor products.<sup>4</sup> FDA later issued a partial MDO rescission of one of the company's branded products, Fumizer, pending further review of its PMTA submission.<sup>5</sup> It appears as though Daddy's Vapor is poised to switch to using synthetic nicotine in its products.<sup>6</sup> One of Daddy's Vapor's brands, Cloud Nurdz, for instance, appears to already offer flavored, synthetic nicotine products, while others, such as Lost Art Liquids, list forthcoming synthetic nicotine products available for "pre-order."<sup>7</sup>

There has been an alarming rise in the rate of youth using disposable e-cigarette products since the beginning of the pandemic. According to the Centers for Disease Control and Prevention's (CDC) 2021 National Youth Tobacco Survey (NYTS), more than two million high school and middle school students reported using e-cigarettes in the last 30 days, with more than half using disposable devices.<sup>8</sup> Previous years' NYTS have shown that prefilled, pod-based e-cigarettes were most popular among teens—with Juul being most popular—but that trend began shifting in 2020 and dramatically reversed in 2021.<sup>9</sup> Moreover, disposable e-cigarettes' exponential growth in popularity among youth has happened during the height of distance learning, even as NYTS responses indicate a decline in adolescent e-cigarette use. CDC

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<sup>3</sup> California Secretary of State, *Articles of Incorporation of a Close Corporation Form* (2016) ([businesssearch.sos.ca.gov/Document/RetrievePDF?Id=03885987-20505056](https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=03885987-20505056)); California Secretary of State, *Statement of Information Form* (2018) ([businesssearch.sos.ca.gov/Document/RetrievePDF?Id=03885987-23589640](https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=03885987-23589640)); Daddy Vapor, *Daddy's Vapor Acquires Cloud Nurdz* (Apr. 16, 2021) (press release); DaddysVapor, *Our Brands* ([daddysvapor.com/pages/wholesale-brands](https://daddysvapor.com/pages/wholesale-brands)).

<sup>4</sup> Food and Drug Administration, *Marketing Denial Orders*, (Dec. 21, 2021) ([www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/tobacco-products-marketing-orders#Marketing%20Denial](https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/tobacco-products-marketing-orders#Marketing%20Denial)).

<sup>5</sup> *FDA Puts A Second Vape Company Back Under Review*, Filter (Oct. 25, 2021) ([filtermag.org/fda-vape-company-review/](https://filtermag.org/fda-vape-company-review/)).

<sup>6</sup> Daddy's Vapor, *Daddys Vapor TFN Catalog* ([www.daddysvapor.co/dv-catalog/](https://www.daddysvapor.co/dv-catalog/)) (accessed Jan. 13, 2022).

<sup>7</sup> Lost Art Liquids, *Home Page* ([www.lostartliquids.com/](https://www.lostartliquids.com/)) (accessed Jan. 13, 2022).

<sup>8</sup> Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report, Notes from the Field: E-Cigarette Use Among Middle and High School Students- National Youth Tobacco Survey, United States, 2021* (Oct. 2021).

<sup>9</sup> Teresa Wang, et al., *Characteristics of e-Cigarette Use Behaviors Among US Youth, 2020*, JAMA (June 7, 2021).

cautions, however, that future rates could return to pre-pandemic levels as adolescents return to classrooms and have access to their preferred pathway to e-cigarettes: their classmates.<sup>10</sup>

Flavored e-cigarettes are the primary driver of the shift to disposable vaping products among adolescents. Year after year, NYTS responses have shown that fruity flavors are the most appealing to adolescents.<sup>11</sup> In 2020, approximately 85 percent of adolescents currently using e-cigarettes exclusively used flavored products; in 2021, that figure remained virtually unchanged.<sup>12</sup> In both 2020 and 2021, fruit flavors were by far the most popular for adolescent e-cigarette users, who apparently shifted to using flavored disposable products as previously dominant e-cigarette brands discontinued their flavored products following FDA's January 2020 final enforcement policy prohibiting the manufacturing, distribution, and sale of non-tobacco or mint-flavored cartridge-based e-cigarettes.<sup>13</sup> Numerous studies have also confirmed that flavored nicotine products appeal to adolescents and increase youth initiation of nicotine use.<sup>14</sup> One study, for instance, found that 98 percent of Texas school-going youth first used e-cigarettes flavored to taste different than combustible cigarettes.<sup>15</sup> Another study found that 81.5 percent of those ages 12–17 who used e-cigarettes did so because they came in flavors they liked.<sup>16</sup>

Marketing materials released by Daddy's Vapor and its brands appear to blatantly target a younger audience. For example, one post on the company's Instagram states, "musical education leads to better test scores" but used hashtags solely related to vaping.<sup>17</sup> Additionally, Instagram

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<sup>10</sup> Centers for Disease Control and Prevention, *Morbidity and Mortality Weekly Report, Notes from the Field: E-Cigarette Use Among Middle and High School Students- National Youth Tobacco Survey, United States, 2021* (Oct. 2021).

<sup>11</sup> Centers for Disease Control and Prevention, *Morbidity, and Mortality Weekly Report, Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students—United States, 2011-2018* (Nov. 16, 2018); Karen Cullen et al., *e-Cigarette Use Among Youth in the United States, 2019*, JAMA (Nov. 5, 2019); See note 9; *Id.*

<sup>12</sup> See note 9.

<sup>13</sup> *Id.*; See note 10; Food and Drug Administration, *FDA finalizes enforcement policy on unauthorized flavored cartridge-based e-cigarettes that appeal to children, including fruit and mint* (Jan. 2, 2020) (press release).

<sup>14</sup> Nicholas Goldenson et al., *A Review of the Use and Appeal of Flavored Electronic Cigarettes*, National Center for Biotechnology Information (May 17, 2019).

<sup>15</sup> M.B. Harrell et al., *Flavored e-Cigarette Use: Characterizing Youth, Young Adult, and Adult Users*, National Center for Biotechnology Information (Nov. 11, 2016).

<sup>16</sup> Food and Drug Administration, *PATH Study Findings Give Insight into Flavored Tobacco, Health Effects of E-Cigarettes, and Adult Use of Cigars and Hookah* (May 1, 2020) ([www.fda.gov/tobacco-products/research/path-study-findings-give-insight-flavored-tobacco-health-effects-e-cigarettes-and-adult-use-cigars](http://www.fda.gov/tobacco-products/research/path-study-findings-give-insight-flavored-tobacco-health-effects-e-cigarettes-and-adult-use-cigars)).

<sup>17</sup> Daddy's Vapor Distro, Inc. (@daddysvapordistro), Instagram (Dec. 6, 2021) ([www.instagram.com/p/CXJ3Ce-u8so/](http://www.instagram.com/p/CXJ3Ce-u8so/)).

posts by another of its brands, Lost Art Liquids, include photos of young women that would be indistinguishable from posts by a popular influencer if they did not contain nicotine warnings.<sup>18</sup> The same posting formula appears to be used across Daddy's Vapor's subsidiaries' social media accounts,<sup>19</sup> with each catering to specific aesthetics preferences.<sup>20</sup>

The dramatic increase in the use of disposable products, and particularly the number of companies using or planning to use synthetic nicotine, is alarming given that the substance has not been rigorously researched for its safety profile nor its public health impacts.<sup>21</sup> There is a dearth of available research on the short- and long-term health effects of synthetic nicotine and how it might affect use behaviors. However, early research regarding synthetic nicotine suggests that adolescents and young adults who do not use any nicotine products view statements such as "tobacco-free nicotine" as safer relative to "nicotine."<sup>22</sup> Non-tobacco-product using respondents indicated Daddy's Vapor's tobacco-free nicotine claim may increase their intentions of using Daddy's Vapor while reducing harm perceptions Daddy's Vapor's addictive products.<sup>23</sup> Regardless of its origin, decades of research confirms that nicotine is an addictive substance and more recent research indicates that e-cigarettes using the same concentrations of nicotine salts as synthetic nicotine products, such as Daddy's Vapor's, deliver "substantially more nicotine to the blood per puff than cigarettes or previous generation e-cigarettes."<sup>24</sup>

Given the well-established health consequences of nicotine addiction, I am concerned by the proliferation of synthetic nicotine products like yours when so little is known about the specific consequences of their use. I also remain deeply troubled by the evident influence of your products on youth use of e-cigarettes. The rapid increase of adolescents using these products is alarming in its similarity to the early tactics of other tobacco companies that contributed to the emergence of the youth vaping epidemic.

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<sup>18</sup> Lost Art Liquids (@lostartliquids), Instagram ([www.instagram.com/LostArtLiquids/](http://www.instagram.com/LostArtLiquids/)) (accessed Jan. 13, 2022).

<sup>19</sup> Cloud Nurdz (@cloudnurdz), Instagram ([www.instagram.com/cloudnurdz/](http://www.instagram.com/cloudnurdz/)) (accessed Jan. 13, 2022).

<sup>20</sup> Fryd (@frydeliquids), Instagram ([www.instagram.com/frydeliquids/?hl=en](http://www.instagram.com/frydeliquids/?hl=en)) (accessed Jan. 13, 2022).

<sup>21</sup> Julia Chen-Sankey et al., *Effect of a 'tobacco-free nicotine' claim on intentions and perceptions of Puff Bar e-cigarette use among non-tobacco-using young adults*, *BMJ Journals* (Oct. 25, 2021).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> University of California San Francisco, *JUUL Delivers Substantially More Nicotine than Previous Generation E-Cigs and Cigarettes* (Jan 6, 2020) ([www.ucsf.edu/news/2020/01/416371/juul-delivers-substantially-more-nicotine-previous-generation-e-cigs-and](http://www.ucsf.edu/news/2020/01/416371/juul-delivers-substantially-more-nicotine-previous-generation-e-cigs-and)).

Fortunately, this month, Congress passed and President Biden signed into law the Consolidated Appropriations Act of 2022 (omnibus), which includes a provision that clarifies FDA's authority to regulate synthetic nicotine products.<sup>25</sup> Specially, Subtitle B of the omnibus amends the definition of a tobacco product in the Federal Food, Drug, and Cosmetic Act to include products containing nicotine from any source—including nicotine not made or derived from tobacco.<sup>26</sup> These changes take effect 30 days after enactment. Following the 30 days, synthetic nicotine product manufacturers who currently have products on the market are permitted a brief transition period to file PMTAs, and during this period their products may remain on the market.<sup>27</sup>

As FDA continues its ongoing efforts to ensure that the products on the market have been authorized for the protection of public health, your company appears to have been intentionally skirting regulatory authority by using synthetic nicotine instead of tobacco-derived nicotine. In light of the omnibus's recent clarification of FDA's regulatory authority over all tobacco products, including those containing synthetic nicotine and to address the concerns I have outlined above, please provide the following requested information, as well as a briefing by April 5, 2022.

1. Does Daddy's Vapor intend to continue making its products available for sale and submit PMTAs for the products that contain synthetic nicotine? If so, please specify for which products. If Daddy's Vapor does not intend to submit PMTAs for all of its products that contain synthetic nicotine, please describe what steps the company will take to ensure these products are no longer available for sale 60 days after enactment of the omnibus. What actions does Daddy's Vapor intend to take to ensure any unauthorized products are not available for sale following the transition period outlined in the omnibus?
2. What research or studies has Daddy's Vapor conducted or financed related to its products? Please provide the studies and their findings pertaining to the topics below, including whether it was conducted or considered by Daddy's Vapor prior to or after a product's introduction to the market. If any research is currently being conducted, please describe the research objectives, methods, and anticipated timeframe. If none of the above applies, please provide an explanation as to why Daddy's Vapor has not conducted or explored research related to the following:
  - a. The public health impacts of adolescent use versus adult use of Daddy's Vapor products, including the effect of synthetic nicotine;
  - b. The potential appeal of Daddy's Vapor products to adolescents and the appeal of each flavored product to adolescents and the reasons for that appeal;

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<sup>25</sup> H.R. 2471, Consolidated Appropriations Act of 2022.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

- c. The likelihood of adolescents and adults transitioning from Daddy's Vapor products to combustible cigarettes or becoming dual users of Daddy's Vapor products and combustible cigarettes or other e-cigarette products;
  - d. Evaluation of the relative health implications of using Daddy's Vapor products compared to abstaining from using any tobacco, tobacco-derived nicotine products;
  - e. Effectiveness of Daddy's Vapor products in helping smokers quit smoking combustible cigarettes;
  - f. Evidence that each of the non-tobacco-flavored Daddy's Vapor products are necessary for smoking cessation among adults;
  - g. Evaluation of the health effects of exposure to each characterizing flavor used in Daddy's Vapor products;
  - h. The potential side effects of synthetic nicotine toxicity;
  - i. The potential toxicity or other potential adverse health effects of exposure to each Daddy's Vapor product, including each delivery system, each particular flavor, and each chemical component when heated and when idle, and whether evidence can be provided that every component of Daddy's Vapor's products have no adverse health effect when inhaled; and
  - j. Promotional and marketing research, including the use of social media, on the demographic characteristics (such as age) of adolescent and adult users of Daddy's Vapor products.
3. Is Daddy's Vapor aware of any adverse experiences by users of its products, including not only health effects like seizures but also product-related defects that could cause harm? If so, how many adverse experiences associated with Daddy's Vapor products have been reported to Daddy's Vapor or that Daddy's Vapor is otherwise aware of occurring. Have these adverse experiences been reported to FDA? If not, please explain why.
  4. Does Daddy's Vapor have a system in place to detect and respond to counterfeit Daddy's Vapor products? If a system does exist, please provide a detailed description of the system as it pertains to each of the below points.
    - a. When Daddy's Vapor initiated its counterfeit detection system, whether the system continues to operate, and whether the system's operation ever lapsed. If available, please provide approximate dates for each point.

- b. The number of counterfeit Daddy's Vapor products detected between September 2020 and September 2021, including whether more counterfeit products were detected before or after Daddy's Vapor's relaunch in February 2021.
        - c. What steps does Daddy's Vapor take, if any, to ensure that counterfeit products come off the market?
        - d. How, if at all, does Daddy's Vapor monitors sellers of counterfeit products?
        - e. What, if any, actions does Daddy's Vapor take when it detects counterfeit products being sold?
5. What age-verification strategies does Daddy's Vapor use to prevent underage sales to minors online? What criteria does Daddy's Vapor use to determine the adequacy of age-verification strategies implemented by retail outlets? Does Daddy's Vapor use a delivery service for online sales that requires proof of age upon delivery, or use an independent third party to verify adequacy and compliance for retail sales?
6. Please provide a breakdown of paid marketing for each year by media, including television, newspapers, magazines, point-of-sale, direct mail, coupons, endorsement and testimonials, sponsorships, social media paid placement and influencers, website, other internet, promotion allowances for retailers and wholesalers, and retail-value-added services.
7. Has Daddy's Vapor retained, currently or in the past, any social media influencers or paid celebrity spokespeople? If so, please provide a detailed list, including:
  - a. The influencers and celebrities' names and associated social media handles where sponsored content or communications were displayed;
  - b. The duration of Daddy's Vapor's relationship with each influencer or celebrity, including those who Daddy's Vapor still retains and those who were retained for a single event or period; and
  - c. To the extent that each is possible, general engagement information for sponsored content, including views, likes, clicks, and sale conversions.
8. Does Daddy's Vapor use, or previously used, social media bots to market its products? If yes, please provide a list of the handles or usernames or other identification of all bots used or paid for by Daddy's Vapor to market its products. Do all bots used or paid for by Daddy's Vapor disclose their connection with Daddy's Vapor in their posts? If so, how do they disclose that connection? What steps does Daddy's Vapor take to ensure such disclosures are made?

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9. What actions, if any, has Daddy's Vapor taken to reduce the presence of Daddy's Vapor-related hashtags and related topics, including those relating to Daddy's Vapor brands, that can be seen and shared by adolescents on social media? Please provide the dates when Daddy's Vapor first contacted each social media company to remove Daddy's Vapor-specific pages or related hashtags or provide explanation for the lack of action.
10. Does Daddy's Vapor currently, or has it ever, run targeted online advertisements? If so, please provide a detailed description of the advertisements, including descriptions of the ads, specific groups targeted, the websites where ads were shown, and, to the extent possible, response metrics.

An attachment to this letter provides additional information about responding to the Committee's request. Thank you for your prompt attention to this matter. If you have any questions, please contact Austin Flack and Jacquelyn Bolen of the Committee staff at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.  
Chairman

cc: The Honorable Cathy McMorris Rodgers  
Ranking Member  
Committee on Energy and Commerce

## **Responding to a Document Request from the Committee on Energy and Commerce**

In responding to the document request from the Committee on Energy and Commerce, please apply the instructions and definitions set forth below.

### **Instructions**

1. In complying with the request, produce all responsive documents in your possession, custody, or control.
2. Documents responsive to the request may not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in the request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., via File Transfer Protocol or other cloud-based online platform, CD, memory stick, or thumb drive) in lieu of paper productions.
5. Documents produced in electronic format should also be organized, identified, and indexed electronically.
6. Documents produced in an electronic format should be produced in a searchable format and, to the extent possible, with each document's original metadata.
7. Documents produced to the Committee must include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents. In lieu of an index, staff may agree to accept a production load file consisting of certain metadata accompanying the documents.
8. When producing documents, identify the paragraph or clause in the Committee's request to which the documents respond.
9. For documents produced physically in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph or clause of the request to which the documents are responsive, should be provided in an accompanying index.
10. It is not a proper basis to refuse to produce a document because another person or entity possesses a nonidentical or identical copy of the same document.
11. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate file format in which to produce the information.

12. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (9) and (10) above.
13. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
14. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
15. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
16. Unless otherwise specified, the time period covered by this request is from January 1, 2019 to the present.
17. This request is continuing in nature and applies to any newly discovered document. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
18. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
19. All documents should be Bates-stamped sequentially and produced sequentially.
20. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The majority set should be delivered to the majority staff in Room 316 of the Ford House Office Building or electronically to a majority staff member, and the minority set should be delivered to the minority staff in Room 564 of the Ford House Office Building or electronically to a minority staff member. Consult with Committee staff regarding the method of delivery prior to sending any materials.
21. Upon completion of the document production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee or identified in a privilege log provided to the Committee.

## Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto). The term also means any graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “documents in your possession, custody, or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, email (desktop or mobile device), text message, instant message, MMS or SMS message, or otherwise.
4. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of the request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa.
5. The terms “person” or “persons” means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; and (b) the individual’s business address and phone number.
7. The terms “referring” or “relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.
8. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.