

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

November 8, 2021

Mr. Nick Minas
Co-Chief Executive Officer

Mr. Patrick Beltran
Co-Chief Executive Officer

Puff Bar
101 North Verdugo Road #11001
Glendale, CA 91226

Dear Messrs. Minas and Beltran:

I write to request documents and information concerning Puff Bar and its sale of disposable e-cigarettes.¹

On March 6, 2020, the Subcommittee on Economic and Consumer Policy alerted the Food and Drug Administration (FDA) that Puff Bar was engaged in the sale of flavored e-cigarette products in violation of FDA regulations requiring premarket authorization.² On June 1, 2020, the Subcommittee reported Puff Bar's deceptive practices to FDA, including its brazen advertisements directed at children which exploited middle and high school students during the peak of the coronavirus pandemic. The Subcommittee urged FDA to take swift enforcement action to rid the market of illegal Puff Bar products.³

¹ According to a recent study, Puff Bar is the preferred brand for children who vape, with 26% of them using its product. See Centers for Disease Control and Prevention, *Notes from the Field: E-Cigarette Use Among Middle and High School Students—National Youth Tobacco Survey, United States, 2021* (Oct. 1, 2021) (online at www.cdc.gov/mmwr/volumes/70/wr/mm7039a4.htm?s_cid=mm7039a4_w).

² Letter from Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform, to Commissioner Stephen M. Hahn, Food and Drug Administration (Mar. 6, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-03-06.RK%20to%20Hahn-FDA%20re%20E-Cig%20Exemptions.pdf>).

³ Letter from Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform, to Commissioner Stephen M. Hahn, Food and Drug Administration (June 1, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-06-01%20RK%20to%20Hahn-%20FDA%20Puff%20Bar%20Products.pdf>).

On July 13, 2020, Puff Bar responded by stating on the puffbar.com website that Puff Bar had ceased all online sales and distribution in the United States.⁴



On July 20, 2020, FDA acted on the Subcommittee's repeated requests by issuing Puff Bar a warning letter, calling on it to cease sales of its products.⁵

FDA's action should have brought an end to the sale of Puff Bar products in the United States. However, Puff Bar continued to sell its products on different websites, including eliquidstop.com, which you reportedly both owned and operated.⁶

According to reports, Puff Bar was restructured in the summer of 2020, during which time you assumed full ownership of the company. This restructuring was reportedly due in part to a schism between Puff Bar shareholders, including those who wanted to shut the company down after FDA declared the sale of Puff Bar products illegal, and the two of you who "still wanted to keep the brand going."⁷

On March 3, 2021, the Subcommittee alerted FDA that Puff Bar had resumed its sale of e-cigarettes after claiming to have reformulated its products using synthetic nicotine instead of tobacco in an apparent attempt to avoid regulation.⁸

⁴ Puff Bar, *Home Page* (online at <https://puffbar.com>) (accessed July 15, 2020).

⁵ Notably, the letter was addressed to Cool Clouds Distribution, Inc. d/b/a Puff Bar. See Food and Drug Administration, *Warning Letter to Cool Clouds Distribution, Inc. d/b/a Puff Bar* (July 20, 2020) (online at www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/cool-clouds-distribution-inc-dba-puff-bar-608526-072020).

⁶ *The 27-Year-Old Friends Behind Puff Bar—Teens' Favorite E-Cigarette*, Wall Street Journal (Oct. 11, 2021) (online at www.wsj.com/articles/the-27-year-old-friends-behind-puff-barteens-favorite-e-cigarette-11633978700); *Lifting the Veil on a Controversial E-cigarette Company*, Salon (July 17, 2020) (online at www.salon.com/2020/07/17/lifting-the-veil-on-a-controversial-e-cigarette-company-_partner/).

⁷ *The 27-Year-Old Friends Behind Puff Bar—Teens' Favorite E-Cigarette*, Wall Street Journal (Oct. 11, 2021) (online at www.wsj.com/articles/the-27-year-old-friends-behind-puff-barteens-favorite-e-cigarette-11633978700).

⁸ Letter from Chairman Raja Krishnamoorthi, Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform, to Acting Commissioner Janet Woodstock, Food and Drug Administration

You have apparently made the vile decision to continue enriching yourselves by poisoning children. Puff Bar's meteoric rise in popularity among kids resulted in \$156 million in sales in 2020 alone.⁹ Puff Bar should not be allowed to continue harming children due to FDA's failure to regulate synthetic nicotine, and I intend to put an end to your predatory practices.

To assist the Subcommittee in its investigation, please provide the following information regarding Puff Bar e-cigarettes by November 22, 2021:

1. A list of all individuals or entities that currently have, or have had in the past, (1) an ownership interest in Puff Bar, (2) a parent or subsidiary relationship to any Puff Bar-related entity, (3) an ownership interest in Puff Bar intellectual property, or (4) any role in manufacturing, importing, marketing, or distributing Puff Bar products;
2. Documents sufficient to show the organizational structure of Puff Bar and each entity identified in response to Request 1, including the names and titles of all individuals who currently have, or have had in the past, an ownership interest in Puff Bar, any parent entity to Puff Bar, or any partially or wholly owned subsidiaries of Puff Bar;
3. For each of the following, please (1) identify and provide the contact information for any principal or agent that has communicated with Puff Bar; (2) describe in detail the entity's relationship to Puff Bar; (3) describe in detail the entity's ownership interest in Puff Bar intellectual property, if any; and (4) describe in detail the entity's role in manufacturing, importing, marketing, or distributing Puff Bar products, if any:
 - a. each entity listed in response to Request 1;
 - b. Puff Inc.;
 - c. DS Technology Licensing LLC;
 - d. Cool Clouds Distribution, Inc.;
 - e. Shenzhen Daosen Steam Technology Co., Ltd. (d/b/a DS Vaping); and
 - f. eliquidstop.com;

(Mar. 3, 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2021-03-03.RK%20to%20Woodcock-%20FDA%20re%20Puff%20Bar%20E-cigarettes.pdf>).

⁹ *The 27-Year-Old Friends Behind Puff Bar—Teens' Favorite E-Cigarette*, Wall Street Journal (Oct. 11, 2021) (online at www.wsj.com/articles/the-27-year-old-friends-behind-puff-bar-teens-favorite-e-cigarette-11633978700).

4. All documents referring or relating to considerations of whether to cease Puff Bar operations;
5. All documents referring or relating to any ownership interest transactions related to Puff Bar, including but not limited to any transfer of ownership interests to Mr. Minas and Mr. Beltran in 2020;
6. All documents and communications referring or relating to the use of synthetic nicotine in Puff Bar products, including the decision to switch to synthetic nicotine, and all documents relating to the purchase of synthetic nicotine;
7. A list of all authorized Puff Bar retailers, including their agents of service, mailing addresses, and website URLs; and
8. All documents referring or relating to any communications, analyses, or strategies about changing the nicotine source of Puff Bar products from August 1, 2019, to the present.

In addition, the Subcommittee requests your appearance for separate transcribed interviews on December 8, 2021. Please contact Subcommittee staff by November 15, 2021, to coordinate your attendance.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,



Raja Krishnamoorthi
Chairman

Subcommittee on Economic and Consumer Policy

Enclosure

cc: The Honorable Michael Cloud, Ranking Member
Subcommittee on Economic and Consumer Policy

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. 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.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. 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, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the 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 that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced 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, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, 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), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, 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 “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 in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
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; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.