

JONES DAY

Contact information redacted

March 5, 2018

VIA E-MAIL ONLY

Arif Ali, Esq.

Contact information redacted

Re: CPE Process Review

Dear Mr. Ali:

This letter responds to yours of January 31, 2018, where you submitted to the ICANN Board the “Second Expert Opinion of Professor William N. Eskridge, Jr., in Response to FTI Consulting, Inc.’s Independent Review of the Community Priority Process” in support of dotgay LLC’s application for the .GAY gTLD. Your letter is posted on the ICANN organization’s correspondence page at <https://www.icann.org/en/system/files/correspondence/ali-to-icann-board-31jan18-en.pdf>.

The ICANN Board is in the process of considering the issues raised in your letter and accompanying Second Expert Opinion. However, the Board has asked us to respond to certain baseless and offensive statements that must be immediately addressed and rejected at the outset.

Specifically, your bald assertion that “a strong case could be made that the purported investigation was undertaken with a pre-determined outcome in mind” has no basis whatsoever, in fact. Neither dotgay LLC nor Professor Eskridge has offered any evidence to support this baseless claim, because no such evidence exists. All dotgay LLC offers is Professor Eskridge’s report, which simply disagrees with the scope of FTI Consulting, Inc.’s (FTI) investigation and the findings set forth in FTI’s reports addressing the CPE Process Review, as they relate to dotgay LLC’s application for the .GAY gTLD. While dotgay LLC may have preferred a different evaluation process and may have desired a different outcome, that is not evidence that FTI undertook its investigation “with a pre-determined outcome in mind.”

Your accusations in this regard are as offensive as they are baseless. The Board initiated the CPE Process Review in its oversight role of the New gTLD Program to provide greater transparency into the CPE process. There was no pre-determined outcome in mind and FTI was never given any instruction that it was expected to come to one conclusion over another. FTI

March 5, 2018

Page 2

was chosen to conduct the CPE Process Review because FTI is the leader in this field, and has the requisite skills and expertise to undertake this investigation.

Your assertions that FTI would blatantly violate best investigative practices and compromise its integrity is insulting and without any support, and ICANN rejects them unequivocally.

Very truly yours,



Kate Wallace