DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PKI Forum, Inc.

Notice is hereby given that, on September 27, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PKI Forum, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Btexact Technologies, Ipswich, Suffolk, United Kingdom; ValiCert, Mountain View, CA; Canadian Payments Association, Ottawa, Ontario, Canada; Merck & Co., Inc., Whitehouse Station, NJ; Johnson & Johnson, New Brunswich, NJ; Seiko Instruments, Inc., Chiba, Japan; PKI Forum Singapore, Singapore, Singapore; TRW, Inc., Cleveland, OH; Chunghwa Telecom Laboratories, Taoyuan, Taiwan; Government of Canada PKI Secretariat, Ottawa, Ontario, Canada; and DOD/Federal PKIPMO, Ft. Mead, MD have been added as parties to this venture. Also, Spyrus, Inc., San Jose, CA; and Sybase, Inc., Emeryville, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PKI Forum, Inc. intends to file additional written notification disclosing all changes in membership.

On April 2, 2001, PKI Forum, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 3, 2001 (66 FR 22260).

The last notification was filed with the Department on June 27, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 30, 2001 (66 FR 39336).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–1540 Filed 1–18–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute: The Consortium for NASGRO Development and Support

Notice is hereby given that, on October 3, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute: The Consortium for NASGRO Development and Support has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Agusta s.p.a., Cascina Costa di Samarate, Italy; EADS Airbus GmbH, Hamburg, Germany; EADS Airbus S.A., Paris, France; Embraer-Empresa Brasileira De Aeronautica S/A, São José dos Campos, Brazil; Israel Aircraft Industries Ltd., Ben-Gurion Airport, Israel; Korea Aerospace Industries Ltd., Kyungnam, Republic of Korea; Northrup Grumman Corporation, Melbourne, FL; Siemens Westinghouse Power Corporation, Orlando, FL; and Volvo Aero Corporation, Trollhättan, Sweden. The nature and objectives of the venture are to identify and prioritize, develop and implement new NASGRO capabilities for structural integrity analysis needed by the user community to address its current and anticipated problems, to provide a wider range of user support services, including but not limited to training and technical support, the facilitate the ongoing use of the NASGRO code by industry, to expand the user community of the NASGRO code, and to promote direct technical interactions among fracture mechanics experts and practitioners regarding the development and implementation of new state-of-the-art methods for structural integrity assessment. The NASGRO (previously NASA/FLAGRO) computer code was originally developed in the 1980's for fracture control analysis on NASA (National Aeronautics and Space Administration) space hardware.

Membership in this research project group remains open, and the participants intend to file additional written notification disclosing all changes in membership or planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 02–1541 Filed 1–18–02; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Prices Power International Denial of Application

On or about May 8, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Price's Power International (PPI), located in Newport New, Virginia, notifying it of an opportunity to show cause as to why the DEA should not deny its application, dated August 25, 1998, for a DEA Certificate of Registration as a distributor of the List I chemicals, pursuant to 21 U.S.C. 823(h), as being inconsistent with the public interest. The order also notified PPI that, should not request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was received May 15, 2000, as indicated by the signed postal receipt. Since that time, no response has been received from the applicant nor any person purporting to represent the applicant. Therefore, the Administrator of the DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that PPI is deemed to have waived its right to a hearing. After considering relevant material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Administrator finds that on August 25, 1998, an application was received by the DEA Chemical Operations Registration section on behalf of PPI for DEA registration as a distributor of the List I chemicals pseudoephedrine, phenylpropanolamine, and ephedrine. PPI did not file this application in time to qualify for temporary exemption from registration pursuant to 21 CFR 1310.09. Accordingly, PPI was not authorized to distribute these chemicals before approval of the application for registration.

On February 25, 1998, an undercover DEA Special Agent (S/A) contacted PPI to discuss the purchase of nine bottles

of ''Revive Ephedrine.'' In response, on March 9, 1998, PPI sent nine bottles of 100 Guaifedrine ephedrine HCL 25 mg. tablets. On March 26, 1998, PPI sent the undercover S/A an additional twelve bottles of 100 Guaifedrine ephedrine HCL 25 mg. tables in response to an order placed by an undercover DEA S/A March 11, 1998.

On June 9, 1998, a clandestine methamphetamine laboratory was seized in Kansas. The seizures at the clandestine laboratory site included an ounce and a half of finished methamphetamine, 738 grams of pseudophedrine, twenty five bottles of 250 60 mg. pseudoephedrine tablets and nineteen bottles of 380 60 mg. pseudoephedrine tablets, all bearing the PPI label. Also seized were a number of order forms, invoices, and a catalogue from PPI. One order form detailed a shipment from PPI for 40 bottles of 380 60 mg. pseudoephedrine tablets (totaling 912 grams of pseudoephedrine) and 16 bottles of 375 37.5 mg. phenylpropanolamine tablets (totaling 225 grams of phenylpropanolamine). The recipient, Gardner's Littlehouse Minimart, and the shipping address of this business entity, were both determined to be nonexistent. In addition, documents seized at the site of the clandestine methamphetamine laboratory documented that a Federal Express package shipped on or about May 27, 1998, from PPI to Gardner's Littlehouse Minimart contained 30 bottles of 380 60 mg. pseudoephendrine tablets and 30 bottles of 250 60 mg. pseudoephedrine tablets, for a total amount of 1134 grams of pseudoephedrine. Documents obtained from Federal Express revealed that previously, on or about May 8, 1998, PPI had shipped a fourteen pound package of Gardner's Littlehouse Minimart, for which there is evidence to believe contained approximately 666 grams of pseudoephedrine.

On June 10, 1998, a Diversion Investigator (D/I) of the DEA Richmond Resident Office (R/O) visited PPI and spoke with the owner, Niles S. Price. During the visit, the D/I attempted to explain the DEA guidelines concerning the handling of List I chemicals. Mr. Price stated that he was aware of the chemical laws, and that he had contacted DEA's Richmond R/O and had just received an application for DEA registration. At this point the visit was terminated.

On June 15, 1998, a D/I in the DEA Kansas City District Office interviewed several Federal Express employees regarding the above-referenced shipments from PPI. These interviews revealed that there were at least two shipments, on May 8 and May 27, 1998, from PPI to Gardner's Littlehouse Minimart, a nonexistent business entity at a nonexistent shipping address. On both occasions, following confusion in the attempted delivery of the shipments, Federal Express employees in Kansas received calls from PPI attempting to locate the shipments. On May 11, 1998, during the first telephone call, a Federal Express employee spoke with an individual whom he believed to be the owner of PPI, telling him that the package could not be delivered because it was incorrectly addressed. The second package was mailed by PPI to the same address about two weeks later, on May 27, 1998. After several failed delivery attempts, Niles S. Price telephonically contacted the Federal Express office in Kansas in an attempt to locate the package. On both occasions, an individual identifying himself as ''Randy Jones'' picked up the packages from Federal Express immediately following each of the calls from PPI.

Also on June 15, 1998, a DEA S/A acting in an undercover capacity placed an order *via* mail with PPI for six bottles of 100 Guaifedrine 25 mg. ephedrine tablets and three bottles of 380 Maxi Thin 60 mg. pseudoephedrine tablets, which were shipped and received by DEA on or about June 25, 1998.

On or about July 16, 1998, in response to an order placed by an undercover DEA S/A, PPI shipped one bottle of 380 pseudophedrine 60 mg. tablets.

On August 6, 1998, three DEA Special Agents visited PPI and spoke with Niles S. Price. At that time, they delivered DEA's written Pseudoephedrine and Phenylpropanolamine Notices, together with a letter advising Mr. Price that he could not conduct any List I or List II chemical transactions until he was registered with DEA. The agents further orally advised Mr. Price that he could not distribute pseudoephedrine or phenylpropanolamine until he registered with DEA.

On or about September 1, 1998, in response to an order placed by an undercover DEA S/A, PPI shipped one bottle of 380 pseudoephedrine 60 mg. tablets.

Pursuant to 21 U.S.C. 823(h), the Administrator may deny an application for a DEA Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest. Section 823(h) requires the following factors be considered:

(1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance by the applicant with applicable Federal, State, and local law;

(3) Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

Like the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Administrator may rely on any one or combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See, e.g. Energy Outlet, 64 FR 14269 (1999). See also Henry J. Schwartz, Jr., M.D., 54 FR 16422 (1989).

As a preliminary matter, DEA consistently has held that a retail store operates under the control of its owners, stockholders, or other employees, and therefore the conduct of these individuals is relevant in evaluating the fitness of and applicant or registrant for registration. See, e.g. Rick's Pharmacy, 62 FR 42595 (1997); Big T Pharmacy, Inc., 47 FR 51830 (1982). Since Niles S. Price is the owner of the applicant, and directed its operations, his conduct is relevant in determining whether or not to grant the applicant's application for registration. Moreover, PPI may be considered a retail store in that it distributes to both businesses and individuals, and also accepts walk-in customers.

Regarding factor one, the maintenance of effective controls against the diversion of listed chemicals, the Administrator finds that the preregistration inspection of the applicant conducted December 9, 1998, did not document any inadequacies in the applicant's security and recordkeeping arrangements.

Regarding factor two, the applicant's compliance with applicable law, the Administrator finds that the evidence shows that PPI and Niles S. Price significantly violated applicable law by distributing List I chemicals on at least seven separate occasions from March, 1998 through September, 1998, when not registered to do so, in violation of 21 U.S.C. 822 and 843(a)(9) and 21 CFR 1309.21(a).

PPI further violated applicable law by failing to obtain proof of identity for at least one of its business customers, in

violation of 21 U.S.C. 830(a)(3) and 842(a)(9) and 21 CFR 1310.07. The types of evidence constituting proof of identity are set forth at § 1310.07. That regulation states that the existence and apparent validity of a business entity should be checked by telephone directory, the local credit bureau, the local Chamber of Commerce or Better Business Bureau, or if the business entity is a registrant by verifying its DEA registration. Regarding sales to individuals or cash purchasers, the regulation states that the purchaser's signature, driver's license, and at least one other form of identification are required.

Section 830(a)(3) requires that each regulated person who engages in a regulated transaction to identify each other party to the transaction. PPI is a ''regulated person'' because it is a distributor of listed chemicals. 21 U.S.C. 802(38). PPI engaged in at least one ''regulated transaction'' when it shipped its May 27, 1998, Federal Express package containing an aggregate amount of 1134 grams of pseudoephedrine, exceeding the cumulative monthly threshold of one kilogram for that chemical established by 21 CFR 1310.04(f)(1). See 21 U.S.C. 802(39)(A)(II). There is evidence to show that the prior May 8, 1998, PPI shipment to Gardner's Littlehouse Minimart contained approximately 666 grams of pseudoephedrine, increasing PPI's distribution in excess of the cumulative monthly threshold for this List I chemical.

It is clear from the facts of this case that PPI consistently violated the proof of identity requirement. PPI sent at least two Federal Express packages containing List I chemicals about two weeks apart to Gardner's Littlehouse Minimart. The DEA investigation showed that both this business entity and address were nonexistent. A proper attempt to prove the identity of Gardner's Littlehouse Minimart in accordance with PPI's legal duty should have raised issues regarding the validity of this business entity, preventing the May 8, 1998, Federal Express shipment of List I chemicals. PPI's contacting the Federal Express office in Kansas in an effort to locate this package indicated that PPI knew something was amiss. What renders PPI's conduct especially egregious in this case is that about two weeks later, on or about May 27, 1998, it sent another package containing List I chemicals to the same bogus business entity at the same bogus address, and again had to call Federal Express in Kansas in an effort to locate the package. There is substantial documentary evidence to indicate that much of the pseudoephedrine seized at the clandestine methamphetamine laboratory on June 9, 1998, was shipped from PPI. If PPI had attempted to verify the legitimacy of Gardner's Littlehouse Minimart in accordance with its legal duty, it is likely that neither the May 8 nor the May 27, 1998 shipments of List I chemicals would have been shipped and later seized at the clandestine methamphetamine laboratory.

Regarding factor three, there is no evidence that the applicant or Niles S. Price has any record of convictions related to controlled substances or to chemicals controlled under Federal or State law.

Regarding factor four, the applicant's past experience in the distribution of chemicals, the Administrator finds that the DEA investigation revealed that the applicant significantly violated applicable law, as set forth above.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that PPI, through its owner Niles S. Price, significantly violated applicable law by distributing List I chemicals without being registered to do so, and by failing to identify the other parties to regulated List I chemical transactions. Mr. Price stated during the June 10, 1998, interview with the DEA Richmond R/O D/I that he was award of the chemical laws regarding the distribution of listed chemicals, and was in the process of obtaining a DEA Registration. Yet, on at least three occasions following this statement, Mr. Price through PPI continued to distribute List I chemicals in response to orders submitted by undercover DEA Special Agents. PPI even continued to distribute List I chemicals following the August 6, 1998, visit by the three DEA Special Agents, who informed Mr. Price by both written and oral notice that he could not distribute listed chemicals until he was registered with DEA. Subsequently, on or about September 1, 1998, PPI shipped additional List I chemicals in response to an order from an undercover DEA Special Agent. In addition, at PPI's December 9, 1998, preregistration inspection, Mr. Price stated to investigators that he requires customers to fax a copy of their driver's license prior to purchases, and that he only ships to the address listed on the license. Yet Mr. Price did not request any form of identification whatsoever for any of the five undercover purchases made by DEA Special Agents previously set forth above. The Administrator finds this lack of candor, taken together with PPI's and Mr. Price's demonstrated cavalier disregard of the statutory law and regulations concerning the registration and distribution of List I chemicals, makes questionable PPI's and Mr. Price's commitment to the DEA regulatory requirements designed to protect the public from the diversion of controlled substances and listed chemicals. Aseel Incorporated, Wholesale Division, 66 FR 35,459 (2001); Terrence E. Murphy, 61 FR 2841 (1996). Indeed, this case is a prime example of the dangers created by the failure to follow applicable law regarding the distribution of listed chemicals. PPI's List I chemical products, distributed in violation of statutory law and regulation, were discovered in significant quantities at a clandestine methamphetamine laboratory site, together with a quantity of finished methamphetamine. If PPI had complied with applicable law, it is doubtful that these List I chemicals would have reached the hands of drug traffickers.

Therefore, for the above-stated reasons, the Administrator concludes that it would be inconsistent with the public interest to grant the application of Price's Power International. The evidence indicates that the applicant has violated applicable law by distributing List I chemicals while not registered with DEA, and by failing to identify other parties to regulated transactions.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certification of Registration submitted by Aseel be denied. This order is effective February 21, 2001.

December 21, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 02–1415 Filed 1–18–02; 8:45 am]

BILLING CODE 4410–09–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2001–7 CARP SD 2000]

Ascertainment of Controversy for the 2000 Satellite Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for notices of intention to participate.

SUMMARY: The Copyright Office of the Library of Congress directs all claimants to royalty fees collected under the section 119 statutory license in 2000 to