

products; and further failed to provide DEA with information demonstrating it had a legitimate customer base for List I chemical products.

Therefore, for the above-stated reasons, the Administrator concludes that it would be inconsistent with the public interest to grant the application of State Petroleum.

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 Certificate of Registration submitted by State Petroleum, Inc. be denied. This order is effective April 4, 2002.

Dated: February 22, 2002.

Asa Hutchinson,
Administrator.

Certificate of Service

This is to certify that the undersigned, on February 25, 2002, placed a copy of the Final Order referenced in the enclosed letter in the interoffice mail addressed to Wayne Patrick, Esq., Office of Chief Counsel, Drug Enforcement Administration, Washington, DC 20537; and caused a copy to be mailed, postage prepaid, registered return receipt to Mr. Mohammed Saghir, State Petroleum, Inc., 6200 Miller Road, Dearborn, Michigan 48126.

Karen C. Grant.

[FR Doc. 02-5225 Filed 3-4-02; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Transtar Distributors, Inc.; Revocation of Registration

On July 29, 2000, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Transtar Distributors, Inc. (Transtar), located in Orlando, Florida, notifying it of a preliminary finding that, pursuant to evidence set forth therein, it was responsible for the diversion of large quantities of List I chemicals into other than legitimate channels. Based on these preliminary findings, and pursuant to 21 U.S.C. 824(d) and 28 CFR 0.100 and 0.104, the OTSC suspended Transtar's DEA Certificate of Registration, effective immediately, with such suspension to remain in effect until a final determination is reached in these proceedings. The OTSC informed Transtar and its owner/president, Nabil Maswadeh (Maswadeh) of an opportunity to request a hearing to show

cause as to why the DEA should not revoke its DEA Certificate of Registration, 004662TIY, and deny any pending applications for renewal or modification of such registration, for reason that such registration is inconsistent with the public interest, as determined by 21 U.S.C. 823(h). The OTSC also notified Transtar that, should no request for hearing be filed within 30 days, its right to a hearing would be considered waived.

On August 16, 2000, the OTSC was returned to DEA, marked "Return To Sender—Unclaimed." No request for a hearing or any other response was received by DEA from Transtar or Maswadeh nor anyone purporting to represent the registrant in this matter. 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 Transtar 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 as follows. List I chemicals are chemicals that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine is a List I chemical that is commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

A "regulated person" is a person who manufactures, distributes, imports, or exports inter alia a listed chemical. 21 U.S.C. 802(38). A "regulated transaction" is inter alia a distribution, receipt, sale, importation, or exportation of a threshold amount of a listed chemical. 21 U.S.C. 802(39). The Administrator finds all parties mentioned herein to be regulated, and all transactions mentioned herein to be regulated transactions, unless otherwise noted.

The DEA investigation shows that at the time of Transtar's pre-registration investigation on December 17, 1999, Maswadeh was personally served with the DEA notices informing him that ephedrine and pseudoephedrine are diverted for use in clandestine methamphetamine laboratories, as well as the notice of informing him that possession or distribution of a listed chemical knowing or having reasonable

cause to believe that the listed chemical will be used to manufacture a controlled substance is a violation of the Controlled Substances Act.

The DEA investigation shows that by March, 2000, Transtar was amassing a large quantity of pseudoephedrine. On March 20, 2000, DEA investigators observed 19 large boxes containing approximately 100 cases of pseudoephedrine being delivered to Transtar. The shipment was received by a business associate of Maswadeh, who used a fictitious name when signing for the shipment. Maswadeh was present when this shipment was received.

Between March 20 and March 24, 2000, DEA investigators observed Maswadeh and his associate remove numerous large cardboard boxes from Transtar and place them into a storage unit. On March 24, 2000, DEA investigators observed Maswadeh ship three large boxes to California. A subsequent search of the boxes revealed approximately 3,036 bottles of pseudoephedrine, each bottle containing 120 tablets, for a total of 364,320 dosage units. The manufacturer's lot numbers and expiration dates had been scraped off of the bottles. The shipping label bore fictitious names for both the shipper and receiver, and also bore a fictitious address for the shipper.

During this same time period, DEA investigators on several occasions observed Maswadeh and his associate place items in a dumpster located near Transtar. A search of the dumpster revealed 24 large cardboard boxes bearing inscriptions indicating that the boxes had contained pseudoephedrine. A subsequent search of the dumpster revealed numerous labels containing lot numbers that had been scraped off pseudoephedrine bottles. Additional items recovered from the dumpster included: receipts and shipping documents indicating Transtar was receiving large amounts of pseudoephedrine from numerous suppliers; five sealed bottles of ephedrine with their lot numbers and expiration dates removed; and a Federal Express Airbill indicating that a 90 pound shipment was sent to California on March 3, 2000. The Airbill showed address information consistent with the California address to which Maswadeh had sent shipments of pseudoephedrine. The Airbill bore a fictitious name and address for the shipper.

On March 25 and 26, 2000, DEA investigators observed Maswadeh removing boxes of pseudoephedrine from the above-referenced storage unit. Also during this time, Maswadeh was observed placing items into a common

dumpster in his residential community. These items included the following: shipping documents and labels indicating Transtar received pseudoephedrine shipments from several manufacturers, and also hundreds of lot numbers that had been scraped off of pseudoephedrine bottles.

On April 19, 2000, DEA received information that Transtar was attempting to place an order with a pharmaceutical manufacturer in New York for 300,000 bottles of pseudoephedrine per month.

On June 1, 2000, DEA Confidential Source information revealed Maswadeh was willing to sell 240 cases of pseudoephedrine for the purpose of illegally manufacturing methamphetamine.

On June 7, 2000, a search warrant was served upon the above-referenced storage unit. DEA investigators seized approximately 240 cases of pseudoephedrine tablets. Some of the pseudoephedrine was still in bottles, and some was loose in plastic bags.

On June 10, 2000, Maswadeh met with an undercover DEA agent and agreed to transport the 240 cases of pseudoephedrine in a rented van.

Confidential Source information acquired by DEA indicates Maswadeh and his associates were selling pseudoephedrine to individuals on the West Coast knowing that the chemical was to be used in the illicit manufacture of methamphetamine.

Therefore, pursuant to 21 U.S.C. 824(d), the Administrator of the DEA issued an immediate suspension of Transtar's DEA Certificate of Registration. While the above-cited evidence provides ample grounds for an immediate suspension pursuant to § 824(d), these grounds also provide the basis for the revocation of Transtar's DEA Certificate of Registration.

Pursuant to 21 U.S.C. 824(a), the Administrator may revoke a registration to distribute List I chemicals upon a finding that the registrant has committed such acts as would render his registration under section 823 inconsistent with the public interest as determined under that section. Pursuant to 21 U.S.C. 823(h), the following factors are considered in determining the public interest:

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

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

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

(4) Any past experience 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 14,269 (1999). *See also Henry J. Schwartz, Jr., MD.*, 54 FR 16,422 (1989).

Regarding the first factor, maintenance of effective controls against diversion, the Administrator finds substantial evidence in the investigative file that Transtar and Maswadeh actively participated in the illegal diversion of pseudoephedrine knowing it would be used to manufacture methamphetamine.

Regarding the second factor, compliance with applicable Federal, State, and local law, the investigative file in this matter reveals substantial evidence indicating that Transtar and Maswadeh significantly violated applicable law. In shipping substantial quantities of pseudoephedrine using fictitious names and addresses and in removing or otherwise destroying labels and lot numbers, Maswadeh clearly was attempting to conceal his activities from law enforcement. In addition, Confidential Source information showed that Maswadeh was willing to sell 240 cases of pseudoephedrine for the stated purpose of illicit manufacture of methamphetamine, and even stated to a DEA undercover agent that he was willing to deliver the 240 cases of chemicals in a rented van he would provide. The Administrator finds these facts support the following violations of applicable law: Transtar and Maswadeh violated 21 U.S.C. 841(d)(1) (possession of a listed chemical with intent to manufacture a controlled substance); 841(d)(2) (possession/distribution of a listed chemical knowing or having reasonable cause to believe that the listed chemical will be used to manufacture a controlled substance); 841(g)(1) (knowing distribution of a listed chemical in violation of the Controlled Substances Act); 841(g)(2) (possession of a listed chemical with knowledge that recordkeeping or reporting requirements not adhered to); 842(a)(5) and (10) (failure to keep required records); and 830(b)(1)(a)

(failure to report any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance the regulated person believes may indicate that the listed chemical will be used in violation of this subchapter). (Note: subparagraphs (d) and (g) of 841 have been redesignated as (c) and (f)).

Regarding the third factor, any prior conviction record under Federal or State laws relating to controlled substances or chemicals, there is no evidence in the investigative file that Transtar or Maswadeh has any record of convictions under Federal or State laws relating to controlled substances or chemicals.

Regarding the fourth factor, past experience in the manufacture and distribution of chemicals, the Administrator finds substantial evidence in the investigative file that Maswadeh actively participated in the illegal trafficking of pseudoephedrine, knowing that it was being diverted to the manufacture of methamphetamine, as set forth in factor two, above.

Regarding the fifth factor, such other factors relevant to and consistent with the public safety, the Administrator finds substantial evidence that Transtar and Maswadeh significantly violated applicable law by illegally trafficking substantial quantities of pseudoephedrine knowing it was being diverted to the manufacture of methamphetamine and further by failing to keep and maintain required records and failure to report suspicious listed chemical transactions.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration 004662TTY, previously issued to Transtar Distributors, Inc., be, and it hereby is, revoked; and any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective April 4, 2002.

Dated: February 22, 2002.

Asa Hutchinson,
Administrator.

Certificate of Service

This is to certify that the undersigned, on February 25, 2002, placed a copy of the Final Order referenced in the enclosed letter in the interoffice mail addressed to Linden Barber, Esq., Office of Chief Counsel, Drug Enforcement Administration, Washington, DC 20537; and caused a copy to be mailed, postage

prepaid, registered return receipt to Mr. Nabil Maswadeh, Transtar Distributors, Inc., 6130 Edgewater Drive, Unit D, Orlando, Florida 32810.

Karen C. Grant.

[FR Doc. 02-5220 Filed 3-4-02; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Yemen Wholesale Tobacco and Candy Supply, Inc.; Revocation of Registration

On January 9, 2001, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) to Yemen Wholesale Tobacco and Candy Supply, Inc. (Yemen), located in Yonkers, New York, notifying it of a preliminary finding that, pursuant to evidence set forth therein, it was responsible for the diversion of large quantities of List I chemicals into other than legitimate channels. Based on these preliminary findings, and pursuant to 21 U.S.C. 824(d) and 28 CFR §§ 0.100 and 0.104, the OTSC suspended Yemen's DEA Certificate of Registration, effective immediately, with such suspension to remain in effect until a final determination is reached in these proceedings. The OTSC informed Yemen of an opportunity to request a hearing to show cause as to why the DEA should not revoke its DEA Certificate of Registration, 003952YAY, and deny any pending applications for renewal or modification of such registration, for reason that such registration is inconsistent with the public interest, as determined by 21 U.S.C. 823(h). The OTSC also notified Yemen that, should no request for hearing be filed within 30 days, its right to a hearing would be considered waived.

On January 9, 2001, a copy of the OTSC was served upon Hasham Alkaifi, Vice President of Yemen. No request for a hearing or any other response was received by DEA from Yemen or Alkaifi nor anyone purporting to represent the registrant in this matter. 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 Yemen 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 as follows. List I chemicals are chemicals that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine is a List I chemical that is commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

A "regulated person" is a person who manufactures, distributes, imports, or exports *inter alia* a listed chemical. 21 U.S.C. 802(38). A "regulated transaction" is *inter alia* a distribution, receipt, sale, importation, or exportation of a threshold amount of a listed chemical. 21 U.S.C. 802(39). The Administrator finds all parties mentioned herein to be regulated, and all transactions mentioned herein to be regulated transactions, unless otherwise noted.

Yemen became registered with the DEA January 25, 1999, as a distributor of List I chemicals. During the pre-registration inspection of Yemen's premises, Yemen was asked to provide a list of proposed suppliers of List I chemical products, and a list of proposed customers for its List I chemical products. DEA investigators subsequently attempted to contact each of the proposed suppliers and customers. Investigation showed that Yemen had made no arrangements with any of the suppliers or customers.

On or about August 18, 1999, 802 bottles of 60 count, 60 mg. pseudoephedrine tablets were sized en route to an individual in Oakland, California. The address was not a DEA registered location authorized to handle List I chemicals. The investigation showed the bottles originated from Yemen, and were sent to Oakland from a business called "One Hour Photo" in New York, also not authorized by DEA to buy or sell List I chemicals.

On August 30, 1999, DEA investigators seized 1,056 bottles of 120 count, 60 mg. pseudoephedrine tablets from a public storage facility in San Pablo, California. The storage facility was not a DEA registered location authorized to handle List I chemicals. An individual was arrested at the time of this seizure, and an additional 3,408 bottles of the same product were seized from his vehicle. The DEA investigation revealed all 4,464 bottles originated from Yemen.

On October 5, 1999, DEA investigators interviewed the arrested individual referenced in the preceding paragraph.

That individual stated that Mr. Alkaifi, President of Yemen, was one of a number of persons who diverted pseudoephedrine from the East Coast to the West Coast. He further stated that those who wanted to purchase pseudoephedrine for the illicit manufacture of methamphetamine would purchase a money order at his market, made payable to Alkaifi. The money order would be sent to Alkaifi, who would deliver the pseudoephedrine to California.

On or before December 8, 1999, Yemen received a Warning Letter from DEA. This letter informed Yemen that its List I chemical product, labeled "Action Release" pseudoephedrine, had been discovered in various illicit settings consistent with the illicit manufacture of the controlled substance methamphetamine. The letter specified two locations; one at San Pablo, California in August, 1999, the other at Oakland, California, in August, 1999.

The DEA investigation also revealed Yemen purchased in excess of 3,594,000 dosage units of 60 mg. pseudoephedrine tablets subsequent to the receipt of this Warning Letter, between February 4, 2000, and July 25, 2000.

On August 7, 2000, a criminal search warrant was served upon Yemen. The search revealed Yemen kept no records of its purchases or sales of pseudoephedrine. The DEA investigation showed, however, that Yemen purchased approximately 26 million dosage units of pseudoephedrine from various suppliers between November 22, 1999, until July 25, 2000.

Also during the August 7, 2000, execution of the search warrant, DEA investigators discovered Yemen had stored approximately 1.6 million dosage units of 60 mg. pseudoephedrine in an off-site storage unit at an unregistered address. This pseudoephedrine was seized, and Hasham Alkaifi, Vice President of Yemen and nephew of Alkaifi, was interviewed. He stated to investigators that Alkaifi was in Yemen (the country), but was continuing to order pseudoephedrine on behalf of Yemen Wholesale. Alkaifi had rented the storage unit and stored the pseudoephedrine there at Alkaifi's director. Alkaifi was not aware of any customers for the 1.6 million dosage units at the storage facility.

Therefore, pursuant to 21 U.S.C. 824(d), the Administrator of the DEA issued an immediate suspension of Yemen's DEA Certificate of Registration. While the above-cited evidence provides ample grounds for an immediate suspension pursuant to § 824(d), these grounds also provide the