U.S.C. 823(h), as being inconsistent with the public interest. The order also notified Hologram that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

No return postal receipt was received for the OTSC sent by certified mail. On August 2, 2000, DEA investigators from the Orlando, Florida District Office traveled to Hologram's business premises and, when there was no answer to repeated knocking, affixed a copy of the OTSC to the front door. Since that time, no further 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 Hologram 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, ephedrine, and phenylpropanolamine are List I chemicals that are 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.

The Administrator finds that on or about January 17, 1999, an application was received by the DEA Chemical Operations Registration section on behalf of Hologram for DEA registration as a distributor of the three above-mentioned List I chemicals.

The DEA investigation revealed a number of Hologram's proposed customers and suppliers were currently being investigated by DEA for violations related to the distribution of List I chemicals; and further that a former business partner of Solomon's, with whom he maintained close business ties, was under investigation for violations of law related to the distribution of List I chemicals.

The investigation further revealed that although Hologram and Solomon had no experience in distributing List I chemical products, Solomon expected this to constitute 25% of his business.

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 14,269 (1999). *See also Henry J. Schwartz, Jr., M.D.,* 54 FR 16,422 (1989).

The Administrator finds factors four and five relevant to this application.

Regarding factor four, the applicant's past experience in the distribution of chemicals, the DEA investigation revealed that the applicant has no previous experience related to distributing listed chemicals, except at the retail level.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that, while Hologram and Solomon have no previous experience in distributing List I chemical products, Solomon expected these products to account for 25% of Hologram's business.

In addition, Hologram provided a proposed customer list that contained a substantial number of firms that were already being supplied by one of four distributors, and each of the named distributors currently had an OTSC pending. The customers shared by these firms and Hologram were requesting Solomon to supply them List I chemical products. The DEA investigation revealed substantial evidence that a number of business associates of Solomon are List I chemical distributors involved in an organization that trafficks illegal pseudoephedrine supplying clandestine methamphetamine laboratories in California. Hologram's proposed customer list indicates it will be supplying the same illicit market as these business associates. Solomon has failed to demonstrate either a legitimate supplier or a legitimate customer base for List I chemical products. Granting Hologram's application would be tantamount to adding another List I chemical distributor supplying the illicit market.

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

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 Hologram Wonders, Inc. be denied. This order is effective April 5, 2002.

Dated: February 22, 2002.

Asa Hutchinson,

Administrator.

[FR Doc. 02–5244 Filed 3–5–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Sinbad Distributing; Denial of Application

On or about July 6, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Sinbad Distributing (Sinbad), located in Las Vegas, Nevada, notifying it of an opportunity to show cause as to why the DEA should not deny its application, dated April 10, 2001, for a DEA Certificate of Registration as a distributor of the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, pursuant to 21 U.S.C.. 823(h), as being inconsistent with the public interest. The order also notified Sinbad that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was received July 16, 2001, 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 Sinbad 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, ephedrine, and phenylpropanolamine are List I chemicals that are 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.

The Administrator finds that on April 10, 2001, an application was received by the DEA Chemical Operations Registration section on behalf of Sinbad for DEA registration as a distributor of the List I chemicals pseudoephedrine, phenlypropanolamine, and ephedrine.

During the August 18, 2001, pre-registration investigation of Sinbad, DEA investigators learned that Sinbad is a wholesale grocery distributorship with no prior experience in handling List I chemical products. The DEA investigation further revealed Sinbad distributes its products almost exclusively to liquor stores, mini marts, and other convenience stores in Las Vegas, Clark County, and Henderson, Nevada.

DEA investigators requested information concerning Sinbad customers who previously have requested pseudoephedrine products. The DEA investigation revealed that most of Sinbad's potential pseudoephedrine customers have in the past obtained excessive quantities of pseudoephedrine products from multiple sources.

In response to requests by DEA investigators, Sinbad also provided a list of potential suppliers. A number of these suppliers have received Warning Letters from DEA documenting that the products they distribute have been found in illicit settings.

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 relay 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., M.D.,* 54 FR 16,422 (1989).

Regarding factor one, the maintenance of effective controls against the diversion of listed chemicals, the Administrator finds that the during the preregistration inspection of the applicant conducted August 18, 2000, Sinbad did not demonstrate that it possessed adequate security and recordkeeping arrangements to prevent the diversion of List I chemical products. Sinbad's owner stated to DEA investigators that he did not plant to segregate List I chemical products in a separate, secure enclosure, but that such products would be stored on open shelves along with other products. The investigation thus revealed that the applicant was unprepared to address the responsibilities that a DEA registration would entail.

Regarding factor two, the applicant's compliance with applicable law, the Administrator finds that there no evidence that the applicant has a record for violations of applicable Federal, State, or local law.

Regarding factor three, there is no evidence that the applicant 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 has no experience in the handling of List I chemicals.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that past DEA investigations and experience has shown that the primary source of diversion of List I chemicals in the areas in which Sinbad seeks to distribute are mini marts and other types of convenience stores. The DEA investigation in this case revealed that Sinbad's customer base is primarily these same types of stores. Sinbad's proposed customer list includes numerous stores of record with DEA as having excessive ordering histories.

One such proposed customer, a mini mart located in Las Vegas, Nevada, on April 17, 2000, ordered one case (144 bottles) of 60 mg. pseudoephedrine tablets in 120 count bottles from a distributor in Michigan. Four days later, the proposed customer ordered another case (144 bottles) of the exact same product from a distributor located in Las Vegas, Nevada. Six days later, a third case was ordered. During this ten day period, approximately 51,840 dosage units of 60 mg. pseudoephedrine tablets were received and distributed. Between March 22 and August 8, 2000, this proposed customer ordered and distributed approximately 200,000 pseudoephedrine 60 mg. tablets.

Two other proposed customers, both mini marts located in Las Vegas, between them ordered and distributed about 629,600 dosage units of pseudoephedrine during an approximately 18 month period. A third proposed customer was indicted of four counts of illegal distribution of a List I chemical with knowledge it would be used to manufacture a controlled substance. The owner later pleaded guilty to one count of the indictment.

The DEA investigation also revealed information concerning potential suppliers named by Sinbad. Three of the proposed suppliers of List I chemicals have each received numerous Warning Letters from DEA. These letters notified the above firms that their distribution practices have contributed to the diversion of List I chemical products to the illicit manufacture of methamphetamine. Among these suppliers, two had received 15 Warning Letters between them, and the third had surrendered its DEA List I chemical registration following the service of a criminal search warrant. During the search, approximately 1736 cases of pseudoephedrine and $385,000 were seized. These three suppliers additionally were responsible for distributing 11,303,160 dosage units of 60 mg. pseudoephedrine products

during an approximately 18 month period. This amount of pseudoephedrine is theoretically capable of producing approximately 1370 pounds of methamphetamine.

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

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 Sinbad Distributing be denied. This order is effective April 5, 2002.

Dated: February 22, 2002.

Asa Hutchinson,

Administrator.

[FR Doc. 02–5242 Filed 3–5–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Y & M Distributions, Inc.; Denial of Application

On or about July 27, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Y & M Distributors, Inc. (Y & M), located in Kissimmee, Florida, notifying it of an opportunity to show cause as to why the DEA should not deny its application, dated November 9, 1999, for a DEA Certificate of Registration as a distributor of the List I chemicals ephedrine, pseudoephedrine, and plhenylpropanolamine, pursuant to 21 U.S.C. 823(h), as being inconsistent with the public interest. The order also notified Y & M that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was received August 4, 2000, as indicated by the signed postal receipt. In addition, on August 2, 2000, DEA investigators from the Orlando, Florida District Office traveled to Y & M's business premises and, when there was no answer to repeated knocking, affixed a copy of the OTSC to the front door. Since that time, no further 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 Y & M 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, ephedrine, and phenylpropanolamine are List I chemicals that are 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.

The Administrator finds that on or about November 9, 1999, an application was received by the DEA Chemical Operations Registration section on behalf of Y & M for DEA registration as a distributor of the three above-mentioned List I chemicals. The DEA pre-registration inspection revealed that Y & M had no prior experience in distributing List I chemical products, and appeared unprepared to accept the responsibilities of a DEA registrant. The DEA investigation also revealed a number of Y & M's proposed customers and suppliers were being investigated for violations related to the distribution of List I chemicals; and further revealed substantial evidence that one of Y & M's corporate officers was involved in the illegal trafficking of pseudoephedrine.

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 14,269 (1999). *See also Henry J. Schwartz, Jr., M.D.* 54 FR 16, 422 (1989).

The Administrator finds factors two, four, and five relevant to this application.

Regarding factor two, the applicant's compliance with applicable law, the investigation revealed evidence tha a corporate officer of Y & M is currently in violation of applicable law. the DEA investigation revealed substantial evidence from a reliable Confidential Source that a corporate officer of Y & M is involved in trafficking illegal pseudoephedrine.

Regarding factor four, the applicant's past experience in the distribution of chemicals, the DEA investigation revealed that the applicant has no previous experience related to handling or distributing listed chemicals.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that a corporate officer stated to investigators that, at the time of the pre-registration investigation, Y & M had only been in business approximately one year. Further, while Y & M and its employees/officers have no previous experience in distributing List I chemical products, a corporate officer expected these products to account for 20% of Y & M's business.

In addition, Y & M provided a proposed customer and supplier list that contains a number of firms that are currently under investigation for alleged diversion of List I chemicals. A corporate officer stated to investigators that Y & M planned to distribute List I chemical products to customers based outside of its usual geographical sales area. The corporate officer admitted that he knew maybe one or two of the 39 proposed customers listed. A number of the proposed customers are listed in a DEA computerized database as having derogatory information concerning their List I chemical handling practices. Therefore, Y & M has failed to adequately demonstrate either a legitimate supplier or a legitimate customer base for List I chemical products.

Therefore, for the above-stated reasons, the Administrator concludes