

recommendations were "based on a sincere medical judgment." As alluded to above, the evidence suggests that Dr. Fry and her husband gave out recommendations solely as a moneymaking venture without conducting anything resembling a medical evaluation of the clients. Because Dr. Fry's recommendations were not "based on a sincere medical judgment," the *Conant* injunction does not prohibit the investigation of Dr. Fry "solely on that ground."

Even if Dr. Fry's recommendations were "sincere," DEA did not initiate its investigation of her "solely on that ground." Rather, the investigation was initiated because Dr. Fry and Mr. Schafer distributed marijuana through a commercial shipping company. When the shipping company discovered that the packages contained marijuana, it informed DEA. During the course of the investigation, DEA agents learned that the return address labels on the marijuana packages contained an address associated with Dr. Fry and Mr. Schafer.

Dr. Fry did not respond to the Order to Show Cause and consequently did not refute the Government's assertions or information contained within the investigative file. As a result, her DEA registration must be revoked. Accordingly, the Deputy 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 BM4859178, issued to Marion "Molly" Fry, M.D. be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective January 21, 2003.

Dated: December 13, 2002.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 02-32008 Filed 12-19-02; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 02-6]

Houba, Inc., Culver, IN; Notice of Administrative Hearing, Summary of Comments and Objections; Notice of Hearing

This Notice of Administrative Hearing, Summary of Comments and Objections, regarding the application of

Houba, Inc. (Houba), for registration as an importer of the Schedule II controlled substances raw opium, opium poppy, and poppy straw concentrate is published pursuant to 21 CFR 1301.34(a). On September 6, 2001, notice was published in the **Federal Register**, 66 FR 46653 (DEA 2001), stating that Houba has applied to be registered as an importer of raw opium, opium poppy, and poppy straw concentrate.

By filings dated October 9, 2001, Penick Corporation (Penick), Noramco of Delaware, Inc. (Noramco), and Mallinckrodt, Inc. (Mallinckrodt), filed comments and request for hearing on Houba's application. Notice is hereby given that a hearing with respect to Houba's application to be registered as an importer of raw opium, opium poppy, and poppy straw concentrate will be conducted pursuant to the provisions of 21 U.S.C. 952(a) and 958 and 21 CFR 1301.34.

Hearing Date

The hearing will begin at 9:30 a.m. on February 3, 2003, and will be held at the Drug Enforcement Administration Headquarters, 600 Army Navy Drive, Hearing Room, Room E-2103, Arlington, Virginia. The hearing will be closed to any person not involved in the preparation or presentation of the case.

Notice of Appearance

Any person entitled to participate in this hearing pursuant to 21 CFR 1301.34, and desiring to do so, may participate by filing a notice of intention to participate, in triplicate, and in accordance with 21 CFR 1301.34, with the Hearing Clerk, Office of Administrative Law Judges, Drug Enforcement Administration, Washington, DC 20537, within 30 days of the date of publication of this notice in the **Federal Register**. Each notice of appearance must be in the form prescribed in 21 CFR 1316.48. Houba, Penick, Noramco, Mallinckrodt, and the Drug Enforcement Administration (DEA) Office of Chief Counsel need not file a notice of intention to participate.

FOR FURTHER INFORMATION CONTACT:

Helen D. Farmer, Hearing Clerk, Drug Enforcement Administration, Office of Administrative Law Judges, Washington, DC 20537; Telephone (202) 307-8188.

Summary of Comments and Objections

Noramco's Comments

Noramco asserts that Houba bears the burden of providing that its registration to import would be consistent with the public interest, that Houba has

apparently not engaged in the import or bulk manufacture of narcotic raw materials or controlled substances since withdrawing a previous application to manufacture the Schedule II controlled substance methylphenidate in 1994, and that existing manufacturers of bulk narcotic substances are producing an adequate and uninterrupted supply under adequately competitive conditions. Noramco further asserts that Houba's parent corporation, Halsey Pharmaceutical (Halsey), has previously failed to comply with DEA regulations and pled guilty in 1993 to drug manufacturing-related crimes, that five former Halsey employees were indicted as a result, and that a controlled substance-related murder occurred at Halsey's premises in 1992. Noramco also asserts that there is significant evidence that Halsey has serious financial problems and does not likely have the financial resources to import and process narcotic raw materials. Finally, Noramco asserts that as of the date of its request for hearing, Mallinckrodt and Noramco were registered by DEA to import narcotic raw materials and applications by Penick, Chattem Chemicals, Inc. (Chattem), and Johnson Matthey, Inc. (Johnson Matthey), were pending, and that DEA is statutorily constrained to limit the number of approved importers and manufacturers to a number that can produce an adequate and uninterrupted supply of controlled substances for legitimate medical, scientific, research, and industrial purposes under adequately competitive conditions.

Penick's Comments

Penick states that based on information in the public record, it appears that Houba may not be able to establish that its registration to import narcotic raw materials would be in the public interest, that in light of the applications for registration to import that were pending at the time Penick filed its comments a determination of the adequacy of competition among importers could not be made; that although it is not possible to determine Houba's capabilities to process narcotic raw materials in its manufacturing facilities, it appears that Houba has never been registered to manufacture a product produced from these substances; and that Penick is not aware whether Houba has ever held DEA registration as a researcher that would allow it to develop methods and procedures for processing narcotic raw materials. Penick further asserts that additional information is necessary about Houba's experience in processing narcotic raw materials and

manufacturing opiate active pharmaceutical ingredients; about Houba's knowledge of and experience with the international marketplace, customs and practices associated with purchases of narcotic raw materials, and control of possible diversion of those materials; and about whether Houba's manufacturing facility complies with DEA's security requirements, including those pertaining to the transport of narcotic raw materials from their port of entry in the United States to Houba's facility. Finally, Penick asserts that Halsey has suffered serious financial difficulties and may be seeking an importer registration in order to attract potential investors and funding, and that Halsey has encountered various regulatory problems.

Mallinckrodt's Comments

Mallinckrodt asserts that Houba bears but cannot meet the burden of providing that its application satisfies applicable legal standards; that DEA, pursuant to its "eighty-twenty rule" (21 CFR 1312.13(f)), requires importers of narcotic raw material to purchase eighty percent of these substances from India and/or Turkey and the remaining twenty percent from Yugoslavia, France, Poland, Hungary, and/or Australia, which provides insurmountable cost advantages to foreign producers; that in order to demonstrate that its application is in the public interest, Houba must demonstrate not only that it has adequate physical security at its facility, but also that it has a proven technology for processing narcotic raw materials that meets federal regulatory requirements, a detailed marketing and business plan, plans and firm capital commitments for construction of the facility in which it will process narcotic raw materials, and personnel with experience and expertise to implement the proven technology with minimal

wastage of narcotic raw materials. Mallinckrodt further asserts that DEA is required to limit the number of importers and that the existing registrants provide an adequate supply under adequately competitive conditions. In addition, Mallinckrodt asserts that Houba should be required to demonstrate that, if registered, it would produce opiates from both opium and poppy straw concentrate, because failing to do so would violate DEA's "eighty-twenty-rule" and DEA's policy against permitting manufacturers to hold registrations and not use them, and because failing to do so would increase the instability of supply of narcotic raw materials. Finally, Mallinckrodt asserts that Halsey admits that it is in a precarious financial position, that Halsey is in a position to control Houba's management and operations, and that Halsey had a poor history of compliance with regulatory requirements throughout the 1990s; that it is uncertain whether Houba has the technical capability to process opium and poppy straw concentrate; and that Mallinckrodt has no knowledge that Houba has any experience in importing or extracting narcotic raw materials.

Dated: December 13, 2002.

John B. Brown III,
Deputy Administrator.

[FR Doc. 02-32007 Filed 12-19-02; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a)

of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 30, 2002.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 30, 2002.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 6th day of December, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted between 11/25/2002 and 11/29/2002]

TA-W	Subject Firm (petitioners)	Location	Date of institution	Date of petition
50,174	Burgess Norton Foundry (Comp)	Muskegon, MI	11/25/2002	11/09/2002
50,175	T.L. Diamond and Company, Inc. (Comp)	New York, NY	11/25/2002	11/22/2002
50,176	Idaho Circuit Technology Corp. (Comp)	Glenns Ferry, ID	11/25/2002	11/22/2002
50,177	Carpenter Technology Corp. (Wkrs)	McBee, SC	11/25/2002	11/22/2002
50,178	Evanite Fiber Corporation (Comp)	Corvallis, OR	11/25/2002	11/22/2002
50,179	SMT, Inc. (UAW)	Hanover, MI	11/25/2002	11/18/2002
50,180	Dalco Industries, Inc. (Comp)	York, PA	11/25/2002	11/22/2002
50,181	Eagle Zinc Company (Comp)	Hillsboro, IL	11/25/2002	11/22/2002
50,182	TSCO/Tube Specialties Co., Inc. (Wkrs)	Troutdale, OR	11/26/2002	11/20/2002
50,183	Donaldson Company, Inc. (Comp)	Port Huron, MI	11/26/2002	11/19/2002
50,184	Corning Cable Systems (Wkrs)	Hickory, NC	11/26/2002	11/13/2002
50,185	Smurfit-Stond (PACE)	Milwaukee, WI	11/26/2002	11/22/2002
50,186	Don Shapiro Industries (Comp)	El Paso, TX	11/26/2002	11/06/2002
50,187	Crown Casting, Inc. (NJ)	Midland Park, NJ	11/26/2002	11/19/2002