

Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: Drug Operations Section, Domestic Drug Unit (ODOU) and must be filed no later than 60 days from publication.

Dated: March 21, 2003.

**Laura M. Nagel,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### James E. Harris, P.A.; Revocation of Registration

On November 19, 2002, the Deputy Assistant Administrator, office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James Harris, P.A. (Mr. Harris) of Henderson, Nevada, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, MH0604846, as a physician's assistant under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of that registration, pursuant to 21 U.S.C. 823(f) for reason that Mr. Harris is not authorized to handle controlled substances in the State of Nevada. The order also notified Mr. Harris that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Mr. Harris at a residential location in Henderson, Nevada and DEA received a signed receipt indicating that it was received on December 5, 2002. DEA has not received a request for hearing or any other reply from Mr. Harris or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Mr. Harris is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that on March 13, 2002, the Nevada State Board of Medical Examiners (the Board) issued Findings of Fact, Conclusions of Law and Order in response to a

complaint filed against the physician assistant license of Mr. Harris. The Board found *inter alia*, that Mr. Harris while working as a physician assistant at his place of work was tested, with a positive result for controlled substances. The Board also found that Mr. Harris' use of controlled substances impaired his ability to practice medicine and endangered the health, safety and welfare of his patients. As a result of its findings, the Board ordered the revocation of Mr. Harris' physician assistant license to practice medicine in the State of Nevada.

There is no evidence in this investigative file that the Board's revocation order has been stayed or lifted, nor is there evidence that Mr. Harris' physician assistant license to practice medicine in the State of Nevada has been reinstated. Therefore, the Deputy Administrator finds that since Mr. Harris is not currently authorized to practice medicine in Nevada, it is reasonable to infer that he is not authorized to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See* Joseph Thomas Allevi, M.D., 67 FR 35581 (2002); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Mr. Harris is not licensed to handle controlled substances in Nevada, where he is registered with DEA. Therefore, he is not entitled to maintain that registration.

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, MH0604846, issued to James E. Harris, P.A., 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 May 9, 2003.

Dated: March 26, 2003.

**John B. Brown III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 02-27]

#### Island Wholesale, Inc., Denial of Application

On October 5, 2001, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Island Wholesale, Incorporated (Respondent), proposing to deny its application, executed on March 31, 2000, for DEA Certificate of Registration as a distributor of the list I chemicals ephedrine and pseudoephedrine. The Order to Show Cause alleged that granting the Respondent's application would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(h).

The Order to Show Cause was delivered to the Respondent by certified mail, and the Respondent timely requested a hearing. However, after the matter was docketed before Administrative Law Judge Gail A. Randall (Judge Randall), and the Government submitted its Prehearing Statement, the Respondent, through its legal counsel, withdrew its opposition to the denial of its DEA application for registration. In response to the Respondent's request, Judge Randall also found that the Respondent had likewise withdrawn its request for hearing. Accordingly, on April 18, 2002, Judge Randall issued a Termination Order terminating all matters before her and the matter was subsequently transmitted to the Deputy Administrator for Final Agency Decision.

In light of the withdrawal of its request for hearing, the Deputy Administrator finds that the Respondent has waived its hearing right. *Aqui Enterprises*, 67 FR 12576 (2002). After considering relevant material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46. The Deputy Administrator finds as follows:

List I chemicals are those 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 and ephedrine 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.