

registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed.

Dated: December 24, 2003.

Laura M. Nagel,

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

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03-14]

Prescriptionline.com Revocation of Registration

On December 18, 2002, the Deputy Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause and Immediate Suspension of Registration to Prescriptiononline.com (Respondent) of Las Vegas, Nevada. Relying on 21 U.S.C. 823(f) and 824(a)(3), (a)(4) and (d), the Order proposed revoking Respondent's retail pharmacy Certificate of Registration, BP6558069, and denying any pending applications for renewal or modification of such registration. It further notified Respondent that its registration was suspended immediately, that the suspension would remain in effect until a final determination in this proceeding and that DEA agents were authorized to and directed to place under seal and remove all controlled substances possessed by Respondent and take into their possession, Respondent's certificate of registration.

As grounds for revocation, the Order to Show Cause alleged, among other things, that between March 12 and September 26, 2002, Respondent provided 1,599,828 dosage units of controlled substances via the Internet pursuant to prescriptions issued by physicians who had not established physician-patient relationships with the persons to whom the prescriptions were issued.

On January 22, 2003, Respondent, through counsel, timely requested a hearing in this matter and on January

24, 2003, the Presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued the Government, as well as Respondent, an Order for Prehearing Statements. On February 12, 2003, in lieu of filing a prehearing statement, the Government filed Government's Motion for Summary Judgment and to Extend the Time to File Prehearing Statements if Necessary. The Government argued Respondent had entered into a stipulation and agreement with the Nevada State Board of Pharmacy (Nevada Board) in which, among other things, Respondent agreed to revocation of its Nevada pharmacy license, that on January 27, 2003, the Nevada Board ratified the stipulation and agreement and that as a result, Respondent is no longer authorized to dispense or otherwise handle controlled substances in the State of Nevada, the jurisdiction in which it is registered, a prerequisite for DEA registration. Attached to the Government's motion was a copy of the stipulation and agreement and the Nevada Board's order ratifying it.

On February 14, 2003, Judge Bittner issued a Memorandum to Counsel and Order staying the filing of prehearing statements and providing Respondent until February 28, 2003, to respond to the Government's motion. Respondent did not file any response.

On March 19, 2003, Judge Bittner issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). As part of her recommended ruling, Judge Bittner granted the Government's Motion for Summary Disposition and found that Respondent lacked authorization to handle controlled substances in Nevada, the jurisdiction in which it was registered. Judge Bittner also recommended that the Respondent's DEA certificate of registration be revoked and that any pending applications for renewal or modification be denied. No exceptions were filed by either party to Judge Bittner's Opinion and Recommended Decision and on April 22, 2003, the record of these proceedings was transmitted to the Office of the then-DEA Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that Respondent, registered to do business in the State of Nevada, was

issued DEA Certificate of Registration BP6558069 as a retail pharmacy. The Acting Deputy Administrator further finds that on January 22, 2003, Respondent voluntarily entered into a "Stipulation and Agreement between Board Staff and Prescriptionline.com" in which Respondent agreed to revocation of its State of Nevada pharmacy license. On January 27, 2003, the Nevada Board issued an Order ratifying the stipulation and agreement. Respondent has not denied that it currently is not licensed to practice pharmacy in Nevada, its jurisdiction of registration.

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 dispense or handle controlled substances in the State in which it conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Karen Joe Smily, M.D.*, 68 FR 48944 (2003); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988); *Wingfield Drugs, Inc.*, 52 FR 27070 (1987).

Here, it is clear that Respondent is not currently licensed to handle controlled substances in Nevada, the jurisdiction in which it maintains a DEA registration. Therefore, it is not currently entitled to a DEA registration.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration issued to Prescriptionline.com be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effecting March 8, 2004.

Dated: January 7, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances Notice of Registration

By notice dated September 2, 2003, and published in the **Federal Register** on October 27, 2003 (68 FR 61234-61235), Sigma Aldrich Company, Subsidiary of Sigma-Aldrich