

Accordingly, the 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 DEA Certificate of Registration, AM8413813, issued to Safraz Mirza, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective November 22, 2004.

Dated: October 5, 2004.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 04-34]

Richard Daniel Price, MD.; Revocation of Registration

On March 15, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Richard Daniel Price, M.D. (Dr. Price) of Birmingham, Alabama, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BP4769949, as a practitioner, pursuant to 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). As a basis for revocation, the Order to Show Cause alleged that Dr. Price's license to practice medicine in Alabama had been revoked and accordingly, he was not authorized to handle controlled substances in Alabama, the state in which he is registered.

On May 3, 2004, Dr. Price, acting *pro se*, timely requested a hearing in this matter. On May 5, 2004, Presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued the Government, as well as Dr. Price, an Order for Prehearing Statements. In lieu of filing a prehearing statement, the Government filed its Motion for Summary Judgment and to Stay the Time to File Prehearing Statements if Necessary. The Government argued Dr. Price's license to practice medicine in Alabama had been revoked, that he was without authorization to handle controlled substances in that state and, as a result, further proceedings in the matter were not required. Attached to

the government's motion was a copy of the Alabama Medical Licensure Commission's Order of March 31, 2003, revoking Dr. Price's license to practice medicine in that state.

On May 13, 2004, Judge Bittner issued an Order and Notice providing Dr. Price an opportunity to respond to the Government's motion. Dr. Price did not file a response. On June 28, 2004, 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 Judgment, finding Dr. Price lacked authorization to handle controlled substances in Alabama, the jurisdiction in which he is registered. Judge Bittner recommended that Dr. Price's DEA registration be revoked and any pending applications for renewal or modification of that registration be denied. No exceptions were filed by either party to the Opinion and Recommended Decision and on August 10, 2004, the record of these proceedings was transmitted to the Office of the DEA Deputy Administrator.

The 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 Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Deputy Administrator finds that Dr. Price holds DEA Certificate of Registration, BP4769949, which expires on March 31, 2005. The Deputy Administrator further finds that, effective as of March 31, 2003, the Medical Licensure Commission of Alabama revoked Dr. Price's Alabama medical license based on his conviction of a felony, a violation of Alabama Code 34-24-360(5) (1997). There is no evidence in the record indicating that the Commission's order has been stayed or rescinded or that Dr. Price's license has been reinstated. Therefore, the Deputy Administrator finds that Dr. Price is currently not licensed to practice medicine in Alabama and, as a result, it is reasonable to infer that he is also without authorization 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 *Kanwaljit S. Serai, M.D.*, 68 FR 48943 (2003); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Here, it is clear that Dr. Price is not currently authorized to handle controlled substances in Alabama, 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 her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BP4769949, issued to Richard Daniel Price, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification or such registration be, and they hereby are, denied. This order is effective November 22, 2004.

Dated: October 5, 2004.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ivan D. Garcia-Ramirez, M.D.; Revocation of Registration

On August 11, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ivan D. Garcia-Ramirez, M.D. (Respondent), proposing to revoke his DEA Certificate of Registration, BG2485173, pursuant to 21 U.S.C. 824(a)(2) and 824(a)(4). The Order to Show Cause alleged that Respondent had been convicted of a felony related to controlled substances and that his continued registration would be inconsistent with the public interest.

By letter dated September 10, 2003, Respondent, through his counsel, requested a hearing and on September 30, 2003, Presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued the Government, as well as Respondent, an Order for Prehearing Statements.

On October 2, 2003, the Government timely filed its prehearing statement. However, Respondent failed to file a prehearing statement and on December 5, 2003, Judge Bittner issued an Order Terminating Proceedings, noting Respondent's lack of response was

considered a waiver of his right to hearing.

Therefore, the Deputy Administrator finds as follows: (1) Respondent requested a hearing; (2) he was directed to file a prehearing statement and cautioned that failure to comply with that order could be considered a waiver of hearing and an implied withdrawal of his request for hearing; and (3) Respondent failed to submit a prehearing statement. The Deputy Administrator therefore concludes Respondent is deemed to have waived his hearing right and, after considering material from the investigative file in this matter, now enters her final order without a hearing, pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

Respondent is currently registered with DEA as a practitioner under Certificate of Registration number BG2485173, at a registered location in Mayaguez, Puerto Rico. That registration expires on September 30, 2005.

According to information in the investigative file, in November 2001, Special Agents from the DEA San Juan Field Office received information that the Sea Brave, a Puerto Rico registered vessel owned by Respondent, may have been used in the trafficking of controlled substances in St. Maarten, Netherlands Antilles. The same information was communicated to Dutch Customs, which placed a lookout for Respondent's vessel.

On June 16, 2002, the Dutch Coast Guard observed the Sea Brave outside the St. Maarten harbor channel. Dutch authorities instructed the vessel return to the marina, inside St. Maarten territorial waters, where it was boarded by Dutch authorities. At the time of boarding, Respondent was on board, along with two others. Upon search of the vessel by Dutch Customs officers, 549 grams of heroin were recovered from a hidden compartment in the cabin area and all individuals on board were arrested and taken to the St. Maarten Police Station.

When questioned the next day, Respondent admitted being told by an individual that at least nine kilograms of cocaine and six kilograms of heroin had been placed on board the Sea Brave. Further he admitted seeing an individual place two boxes and eighty pellets of suspected heroin inside a hidden compartment, behind a television set on board the vessel. Upon receipt of this information, Dutch Customs went back on board the Sea Brave, which had been docked overnight at a nearby pier. However, it was discovered that someone had apparently already boarded the vessel and removed the television from its wall

unit. A hidden compartment behind the television was empty.

After negotiations between the United States Department of Justice and the Dutch Government, it was concluded prosecutions would take place in the United States District Court, District of Puerto Rico and Respondent and his cohorts were indicted on charges of conspiring to import more than one kilogram of heroin, a Schedule I Narcotic Controlled Substance, and more than five kilograms of cocaine, a Schedule II Narcotic Controlled Substance, in violation of 21 U.S.C. 952, 960 and 963. Respondent entered pleas of not guilty and was detained pending trial at the Metropolitan Detention Center in Guaynabo, Puerto Rico. On September 19, 2002, Respondent plead guilty to one felony count of 21 U.S.C. 952(a), Possession With Intent To Import Heroin. On May 16, 2003, he was sentenced to 20 months incarceration and 60 months supervised release.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certification of Registration and deny any pending applications for renewal of such registration, if she determines that continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

- (1) The recommendation of the appropriate state licensing board or professional disciplinary authority.
- (2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.
- (3) The applicant's conviction record under federal or state laws relating to the manufacture, distribution, or dispensing of controlled substances.
- (4) Compliance with applicable State, Federal, or local laws relating to controlled substances.
- (5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See Henry J. Schwartz, Jr., M.D.*, 54 FR 16,422 (1989).

It is undisputed that Respondent was convicted of Possession With Intent to Import Heroin. Since Respondent's felony conviction related to controlled substances, grounds exist to revoke his DEA registration under 21 U.S.C. 824(a)(2). *See William C. Potter, D.V.M.*, 65 FR 50,569 (2000).

Next, the Deputy Administrator considers whether Respondent's continued registration would be inconsistent with the public interest. In this case, the Deputy Administrator finds factors three, four and five relevant in determining whether continuing Respondent's registration would be inconsistent with the public interest.

As to factor one, the recommendation of the appropriate state licensing board or professional disciplinary authority, there is no evidence in the investigative file of action being taken against any professional license of Respondent. With respect to factor two, his experience in dispensing, or conducting research with respect to controlled substances, there is no information in the investigative file relative to Respondent's lawful handling of controlled substances in his professional practice.

With regard to factors three, four and five, the Deputy Administrator finds that Respondent, by his own admission, used his vessel to knowingly transport cocaine and heroin and attempted to conceal the drugs in a hidden compartment. He was then arrested and convicted of Possession With Intent to Import Heroin. The egregious nature of Respondent's conduct bears directly upon his fitness to possess a DEA registration and, applying the above factors, leads to the obvious conclusion that Respondent's continued registration would be inconsistent with the public interest.

Accordingly, the 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 DEA Certificate of Registration, BG2485173, previously issued to Ivan D. Garcia-Ramirez, be, and it hereby is, revoked. This order is effective November 22, 2004.

Dated: October 5, 2004.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 04-01]

RX Network of South Florida, LLC Revocation of Registration

On October 10, 2003, the then-Acting Deputy Administrator of the Drug Enforcement Administration (DEA),