commercial carrier to distribute to a non-regulated person nine grams or more of pseudoephedrine in the course of a calendar month engages in a regulated transaction. *See* 21 U.S.C. 802(39)(A)(iv), *id.* section 830(b)(3); 21 CFR 1310.03(c), *id.* 1310.04(f). Federal law further provides that ''[i]t is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction.'' 21 U.S.C. 830(a)(3); *see also* 21 CFR 1310.07. Under DEA's regulations, ''[f]or sales to individuals * * * the type of documents and other evidence of proof must consist of at least a signature of the purchaser, a driver's license and one other form of identification.'' 21 CFR 1310.07(d).[2]

It seems highly likely that Respondent's sales would frequently exceed the threshold. Most significantly, Respondent does not appear to have in place any procedures to verify the identity of its customers, most of which are located outside of Tennessee and at a great distance from Respondent's three salespersons. I thus find that Respondent lacks effective controls to prevent diversion. While this factor is reason alone to conclude that granting Respondent's application would be inconsistent with the public interest, a discussion of factor five is also warranted.

Factor Five—Other Factors That Are Relevant to and Consistent With Public Health and Safety

The record establishes that Respondent's proposed customers are not participants in the traditional retail market for pseudoephedrine products. *See*, *e.g.* D & S Sales, 71 FR 37607, 37608–09 (2006); *Joy's Ideas*, 70 FR at 33197. Indeed, dive shops and paint ball facilities seem to be an even less likely source for legitimate consumer purchases of pseudoephedrine than convenience stores and gas stations, establishments which DEA has repeatedly found to be ''sources for the diversion of listed chemical products.'' *Joey Enterprises*, 70 FR 76866, 76867 (2005). Moreover, Respondent's customer list included numerous individuals with no listed business affiliation. Why these individuals would need to purchase pseudoephedrine from a wholesaler rather than a retailer is not clear.

DEA final orders have repeatedly recognized that ''there is a substantial risk of diversion of List I chemicals into the illicit manufacture of methamphetamine when these products are sold by non-traditional retailers.'' *Tri-County Bait Distributors*, 71 FR 52160, 52164 (2006). *See also Joy's Ideas*, 70 FR at 33199 (finding that the risk of diversion was ''real, substantial and compelling''); *Jay Enterprises*, 70 FR at 24621 (noting ''heightened risk of diversion'' should application be granted). Under DEA precedents, an applicant's proposal to sell into the non-traditional market weighs heavily against the granting of a registration under factor five. So too here.

I acknowledge that Respondent proposed to sell only name brand pseudoephedrine products in lower dosage counts. While these products have not been preferred by illicit methamphetamine manufacturers, they have nonetheless been subject to diversion. *See*, *e.g.*, *TNT Distributors*, 70 FR 12729, 12730 (2005). Indeed, in light of recently enacted restrictions on the sale of List I chemical products imposed by both Congress and numerous state legislatures, it is reasonable to expect that methamphetamine traffickers will resort to using increasing amounts of name-brand products.

As I recently explained, ''[b]ecause of the methamphetamine epidemic's devastating effects, DEA has repeatedly denied an application when an applicant proposed to sell into the non-traditional market and analysis of one of the other statutory factors supports the conclusion that granting the application would create an unacceptable risk of diversion.'' *Tri-County Bait*, 71 FR at 52164. Thus, even though Respondent proposes to distribute only name-brand pseudoephedrine products, the fact that its proposed customers are primarily non-traditional retailers (and also include individuals with no known business affiliation) and that it has no effective measures to identify its customers and determine whether their purchases would be to meet legitimate consumer demand, creates an unacceptable risk that its products would be diverted. Therefore, while I acknowledge that none of Respondent's officers or employees has a record of criminal convictions (factor three) and that the investigative file does not otherwise establish that Respondent would fail to comply with applicable laws (factor two), I conclude that granting Respondent's application would be inconsistent with the public interest. *See Joy's Ideas*, 70 FR at 33199 (registrant's ''lack of a criminal record, previous general compliance with the law and regulations and willingness to comply with regulations and guard against diversion, are far outweighed by [registrant's] intent to continue selling * * * pseudoephedrine exclusively in the gray market'').

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(h), and 28 CFR 0.100(b) and 0.104, I hereby order that the application of Integrity Wholesale, Inc., for a DEA Certificate of Registration as a distributor of List I chemicals be, and it hereby is, denied. This order is effective November 13, 2006.

Dated: September 29, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–16757 Filed 10–10–06; 8:45 am]

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[2] For sales to a new customer that is ''not an individual * * *, the regulated person shall establish the identity of the authorized purchasing agent or agents and have on file that person's signature, electronic password, or other identification.'' 21 CFR 1310.07(e). A regulated person must also ''verify the existence and apparent validity of a business entity.'' *Id.* at 1310.07(b).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Premier Holdings, Inc.; Denial of Application

On October 20, 2005, the Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Premier Holdings, Inc. (Respondent), d/b/a/ Filmart, of Brooklyn, New York. The Show Cause Order proposed to deny Respondent's application for a DEA Certificate of Registration as a distributor of List I chemicals, on the ground that issuance of a registration would be inconsistent with the public interest. *See* 21 U.S.C. 823(h); Show Cause Order at 1.

The Show Cause Order specifically alleged that Respondent was proposing to distribute List I chemical products containing pseudoephedrine to various firms including convenience stores. *See* Show Cause Order at 3. The Show Cause Order alleged that DEA has determined that convenience stores constitute a non-traditional or ''gray market'' for products containing pseudoephedrine and that there is ''a high incidence of diversion'' of these products from these retailers into the illicit manufacture of methamphetamine, a Schedule II controlled substance. *Id.* at 2. The Show Cause Order also alleged that even traditional cold and cough products have been diverted into the illicit manufacture of methamphetamine. *Id.* at 2.

The Show Cause Order further alleged that Respondent's owner, Mr. Eugene Lefkowitz, told DEA investigators that

his firm, which sells film, phone cards, batteries, and health and beauty products, was seeking registration because it was ''losing business.'' *Id.* at 3. The Show Cause Order alleged that Mr. Lefkowitz estimated that his sales of List I chemicals products would amount to approximately 10 percent of his firm's total annual sales of $25 million. *See id.*

The Show Cause Order also alleged that Mr. Lefkowitz provided investigators with a list of potential suppliers and a list of products which Respondent intended to distribute. *See id.* The Show Cause Order alleged that while the product list included ''predominately traditional pseudoephedrine products * * *. these products were not consistent with the known product lines of several suppliers.'' *See id.*

The Show Cause Order alleged that Respondent provided the investigators with a list of 25 prospective customers for List I chemicals of which only 2 were located in New York State. *Id.* at 3. The Show Cause Order alleged that investigators conducted verifications with 17 of the prospective customers, and that while all of the customers acknowledged having bought film from Respondent, 15 of them informed the investigators ''that they had never discussed purchasing listed chemical products from'' Respondent. *Id.*

The Show Cause Order further alleged that many of these customers were large distributors who were ''capable of purchasing products directly from the manufacturers.'' *Id.* The Show Cause Order also alleged that Mr. Lefkowitz subsequently claimed to investigators that he was ''losing money'' because his customers were requesting that he sell them List I chemical products and lacked a registration to do so. *Id.* Finally, the Show Cause Order alleged that Respondent ''and its principals * * * failed to provide truthful and accurate information about the nature of their business * * * and cannot be expected to properly discharge the duties of a registrant.'' *Id.*

The Show Cause Order was sent by certified mail to Respondent's business address as listed on its application. According to United States Postal Service records, Respondent received the Show Cause Order on October 31, 2005.

Since the effectuation of service, neither Respondent, nor anyone purporting to represent it, has responded. Because (1) more than 30 days have passed since Respondent received the Show Cause Order, and (2) no request for a hearing has been received, I conclude that Respondent has waived its right to a hearing. *See* 21 CFR 1309.53(c). I therefore enter this final order without a hearing based on relevant material contained in the investigative file and make the following findings.

Findings

Pseudoephedrine is a List I chemical that, while having therapeutic uses, can be extracted from lawful non-prescription products and used to manufacture methamphetamine, a schedule II controlled substance. *See* 21 U.S.C. 802(34); 21 CFR 1308.12(d). As noted in numerous prior DEA orders, ''methamphetamine is an extremely potent central nervous system stimulant.'' Sujak Distributors, 71 FR 50102, 50103 (2006); A–1 Distribution Wholesale, 70 FR 28573 (2005). Methamphetamine abuse has destroyed lives and families, ravaged communities, and caused serious environmental harms. Sujak, 71 FR at 50103.

Respondent is a corporation which is located at 4111 Glenwood Road, Brooklyn, New York. On June 8, 2004, Respondent submitted an application for a Certificate of Registration to distribute pseudoephedrine.

On October 19, 2004, two DEA Diversion Investigators (DIs) visited Respondent at its proposed registered location to conduct a pre-registration investigation. The DIs met with Mr. Eugene Lefkowitz, Respondent's President, and Mr. Aron Kohn, its General Manager. The DIs presented their credentials, discussed the nature of their visit, inspected the facility and interviewed Mssrs. Lefkowitz and Kohn regarding the firm's business.

Respondent is located in an industrial area of Brooklyn and occupies a warehouse built of brick and cinderblock. According to the investigative file, the warehouse has motion detectors, cameras, and an alarm system. All visitors are screened and warehouse access is limited to certain employees. The List I chemicals would be stored on shelves located near the warehouse manager's desk. The investigative file indicates that only four employees would have access to List I chemicals. Moreover, the investigation did not uncover any adverse information as to any of these employees or the firm's officers. Finally, Respondent's recordkeeping practices apparently would comply with DEA regulations.

During the interview, the DIs were informed that Respondent had total annual sales of approximately $25 million and that the firm had been in business for approximately 10 years. Respondent sells film, batteries, and health and beauty products to drug stores, supermarkets, wholesalers, and convenience stores throughout the United States.

Most significantly, Respondent had no experience in distributing List I chemicals. Mssrs. Kohn and Lefkowitz told the DIs that the firm intended to distribute name brand, over-the-counter, cold and flu medications containing pseudoephedrine. Mssrs. Kohn and Lefkowitz also stated to the DIs that their customers frequently requested name brand cold and flu remedies.

Mr. Kohn provided the DIs with a list of the products Respondent intended to distribute. The List contained only traditional name brand products. Mr. Kohn also provided the DIs with a list of suppliers. Several of the firms were, however, under investigation for supplying products that have been diverted into the illicit manufacture of methamphetamine.

Mr. Kohn also provided the DIs with a list of twenty-five potential customers. All but two of these customers were located outside of New York State. The customer list included large grocery and drug store chains, as well as large wholesalers who supply grocery and drug store chains and convenience stores.[1] Most of the firms already had DEA registrations authorizing them to distribute List I chemicals.

Thereafter, a DI contacted five of the firms. Three of the firms told the DI that they were no longer buying products from Respondent.

On March 23, 2005, Mr. Lefkowitz called Ms. Margaret Brophy, the Diversion Program Manager for the New York Field Division to inquire about the status of his application. During the conversation, Mr. Lefkowitz related that

[1] The customer list included Winn Dixie Stores, Inc., which owns approximately 920 grocery and drug stores in the southeastern U.S.; Wakefern Food Corp., a cooperative of independent grocers who operate more than 200 Shop Rite Supermarkets (more than half of which have pharmacies) throughout the northeastern U.S.; and Brookshire Grocery, which operates more than 150 stores in Texas and adjacent states. The list also included USA Drugs, which distributes health and beauty products to more than 1,000 grocery, drug, and discount stores, and which operates more than 170 drug stores in Arkansas and adjacent states; and Discount Drug Mart, Inc., which operates more than 60 stores in Ohio. The list further included Eby-Brown Co., the largest privately owned wholesale distributor of various products to convenience stores in the U.S. with more than 25,000 customers in the midwestern and southeastern U.S.; Spartan Stores, which owns and operates 68 supermarkets and 19 drugstores in Michigan and Ohio, and which also distributes products to more than 350 independent grocery stores in the midwestern U.S.; and Grocery Supply Co., which supplies more than 15,000 independently-owned supermarkets, convenience stores, wholesale houses, discount stores and other retailers.

he was losing business because he could not fully service his customers by selling them pseudoephedrine products and that his customers had told him that if his firm could not provide them with all the items they required, they would take their business to a firm that would. Mr. Lefkowitz further claimed that he was being forced to offer deep discounts to maintain his customer base.

Ms. Brophy asked Mr. Lefkowitz why most of Respondent's customers were located outside of New York. Mr. Lefkowitz stated that he had lost New York customers because his firm could not supply them with all the products they required. Mr. Lefkowitz further related that his non-New York based customers were less demanding with respect to purchasing all of their products from one source.

Thereafter, in May 2005, a DI conducted additional inquiries of the firms listed on Respondent's customer list and contacted seventeen of the firms. While all of the firms verified that they had purchased film from Respondent, fifteen of the firms informed the DI that they had never discussed with Respondent the purchase of List I chemical products from it.[2]

Discussion

Under 21 U.S.C. 823(h), an applicant to distribute List I chemicals is entitled to be registered unless I determine that the registration would be ''inconsistent with the public interest.'' In making this determination, Congress directed that I consider the following factors:

(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.

Id. ''These factors are considered in the disjunctive.'' Joy's Ideas, 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether an application for registration should be denied. *See, e.g.*, David M. Starr, 71 FR 39367, 39368 (2006); Energy Outlet, 64 FR 14269, 14271 (1999). In this case, I conclude that factors four and five are dispositive and establish that Respondent's application should be denied.

Factor One—Maintenance of Effective Controls Against Diversion

The investigative file does not establish that Respondent would fail to maintain effective controls against the theft and diversion of listed chemicals. Respondent's facility appears to meet DEA's regulations pertaining to physical security. *See* 21 CFR 1309.71(b)(1)–(7). Moreover, it appears that Respondent has an adequate system ''for monitoring the receipt, distribution, and disposition of List I chemicals.'' *Id.* § 1309.71(b)(8). I thus conclude that this factor supports a finding that Respondent's registration would be consistent with the public interest.

Factors Two and Three—Compliance With Applicable Law and the Applicant's Prior Record of Relevant Criminal Convictions

The investigative file does not establish that Respondent has failed to comply with applicable Federal, State, and local laws. Moreover, there is no evidence establishing that Respondent, any of its officers, or any employee with access to List I chemicals has been convicted of a criminal offense related to controlled substances or chemicals. Both factors thus support a finding that Respondent's registration would be consistent with the public interest.

Factor Four—The Applicant's Past Experience In Distributing Chemicals

The investigative file establishes that Respondent has no experience distributing List I chemicals. Moreover, Respondent did not provide evidence to the DIs that any of its employees have experience in distributing List I chemicals. Because of the high risk of diversion, DEA has repeatedly held that an applicant's (and its employees') lack of experience in distributing List I chemicals is a factor that weighs heavily against granting an application for a registration. Sujak Distributors, 71 FR at 50104; Jay Enterprises, 70 FR 24620, 24621 (2005); ANM Wholesale, 69 FR 11652, 11653 (2004). This factor thus supports a finding that Respondent's registration would be inconsistent with the public interest.

Factor Five—Other Factors That Are Relevant To and Consistent With Public Health and Safety

Numerous DEA cases recognize that the sale of List I chemical products by non-traditional retailers such as convenience stores is an area of particular concern in preventing diversion of these products into the illicit manufacture of methamphetamine. *See, e.g.*, Joey Enterprises, 70 FR 76866, 76867 (2005). As Joey Enterprises explains, ''[w]hile there are no specific prohibitions under the Controlled Substances Act regarding the sale of listed chemical products to [convenience stores], DEA has nevertheless found that [these entities] constitute sources for the diversion of listed chemical products.'' *Id. See also* TNT Distributors, 70 FR 12729, 12730 (2005) (special agent testified that ''80 to 90 percent of ephedrine and pseudoephedrine being used [in Tennessee] to manufacture methamphetamine was being obtained from convenience stores''); OTC Distribution Co., 68 FR 70538, 70541 (2003) (noting ''over 20 different seizures of [gray market distributor's] pseudoephedrine product at clandestine sites,'' and that in an eight month period distributor's product ''was seized at clandestine laboratories in eight states, with over 2 million dosage units seized in Oklahoma alone.''); MDI Pharmaceuticals, 68 FR 4233, 4236 (2003) (finding that ''pseudoephedrine products distributed by [gray market distributor] have been uncovered at numerous clandestine methamphetamine settings throughout the United States and/or discovered in the possession of individuals apparently involved in the illicit manufacture of methamphetamine'').

Respondent's list of potential customers included wholesale distributors to convenience stores. Moreover, during the on-site inspection, the DIs determined that Respondent sells various products to convenience stores. DEA final orders recognize that there is a substantial risk of diversion of List I chemicals into the illicit manufacture of methamphetamine when these products are sold by these non-traditional retailers. *See, e.g.*, Joy's Ideas, 70 FR at 33199 (finding that the risk of diversion was ''real, substantial and compelling''); Jay Enterprises, 70 FR at 24621 (noting ''heightened risk of diversion'' should application be granted).

I acknowledge that Respondent's list of potential customers included grocery chains, drug store chains, and wholesale distributors to these firms. DEA has found that these firms constitute the traditional market for pseudoephedrine products. *See, e.g.*, D & S Sales, 71 FR 37607, 37608–09 (2006); Joy's Ideas, 70 FR at 33196–97.

[2] Two of the firms had discussed purchasing List I chemicals from Respondent.

There is, however, substantial reason to question the validity of the customer information Respondent provided to DEA. In DEA's experience, many of the firms listed as potential customers are of large enough size that they are able to purchase List I chemical products either directly from manufacturers or from large wholesalers. *See* John Vanags, 71 FR 39365, 39366 (2006). Indeed, it seems unlikely that Respondent could offer prices that are competitive with those offered by the manufacturers of List I products or large wholesalers.

Most significantly, the investigative file establishes that Mr. Lefkowitz represented to DEA investigators that Respondent's customers had requested List I chemical products from his firm and that he had lost business and was forced to offer deep discounts to keep other customers. Yet all but two of the firms contacted by the DI told her that they had never discussed the purchase of List I products with Respondent. Moreover, several of the firms told the DI that they were no longer purchasing products from Respondent.

That the overwhelming majority of the customers told the DI that they had never discussed purchasing List I products from Respondent (and that some of the firms no longer bought any products from it) raises a serious question as to the validity of Mr. Lefkowitz's statements to DEA personnel. Indeed, the information uncovered by the customer verifications suggests that Respondent may have provided the customer list (which contains legitimate businesses) to induce DEA to grant it a registration, which it would then use to distribute List I products into the non-traditional market, the principle supply source of mom-and-pop methamphetamine labs. Whether this was the intent of Respondent's officers I need not decide because DEA will not grant any application when there is reason to question the validity of the information an applicant has provided.

As it is, it is indisputable that Respondent's customers include convenience stores. Under DEA precedents, an applicant's proposal to sell List I products into the non-traditional market weighs heavily against the granting of a registration under factor five. So too here.

DEA has repeatedly denied an application when an applicant proposed to sell into the non-traditional market and the analysis of one of the other statutory factors supports the conclusion that granting the application would create an unacceptable risk of diversion. Thus, in Xtreme Enterprises, 67 FR 76195, 76197 (2002), my predecessor denied an application, observing that the respondent's ''lack of criminal record, compliance with the law and willingness to upgrade her security system are far outweighed by her lack of experience with selling List I chemicals and the fact that she intends to sell ephedrine almost exclusively in the gray market.''

More recently, I denied an application, observing that the respondent's ''lack of a criminal record and any intent to comply with the law and regulations are far outweighed by his lack of experience and the company's intent to sell ephedrine and pseudoephedrine exclusively to the gray market.'' Jay Enterprises, 70 FR at 24621. Accord Prachi Enterprises, 69 FR 69407, 69409 (2004). Consistent with these precedents, and considering the serious concern raised by the investigation as to Respondent's intended customers, I conclude that granting Respondent's application for a registration would be inconsistent with the public interest.

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(h), as well as 28 CFR 0.100(b) and 0.104, I hereby order that the application of Premier Holdings, Inc., d/b/a/ Filmart, for a DEA Certificate of Registration as a distributor of List I chemicals be, and it hereby is, denied. This order is effective November 13, 2006.

Dated: September 29, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–16756 Filed 10–10–06; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

Public Interest Declassification Board (PIDB); Notice of Meeting

Pursuant to Section 1102 of the Intelligence Reform and Terrorism Prevention Act of 2004 which extended and modified the Public Interest Declassification Board (PIDB) as established by the Public Interest Declassification Act of 2000 (Pub. L. 106–567, title VII, December 27, 2000, 114 Stat. 2856), announcement is made for the following committee meeting:

Name of Committee: Public Interest Declassification Board (PIDB).

Date of Meeting: Friday, October 13, 2006.

Time of Meeting: 9 a.m. to 12:30 p.m.

Place of Meeting: National Archives and Records Administration, 700 Pennsylvania Avenue, NW., Archivist's Reception Room, Room 105, Washington, DC 20408.

Purpose: To discuss declassification program issues.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than Wednesday, October 11, 2006. ISOO will provide additional instructions for gaining access to the location of the meeting.

For Further Inforamtion Contact: J. William Leonard, Director Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, NW., Washington, DC 20408, telephone number (202) 357–5250.

Dated: October 4, 2006.

J. William Leonard,

Director, Information Security Oversight Office.

[FR Doc. E6–16749 Filed 10–10–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COUNCIL ON DISABILITY

Cultural Diversity Advisory Committee Meetings (Teleconferences)

Times and Dates:

November 16, 2006, 3 p.m. Eastern.
February 16, 2007, 3 p.m. Eastern.
May 17, 2007, 3 p.m. Eastern.
July 19, 2007, 3 p.m. Eastern.
September 20, 2007, 3 p.m. Eastern.

Place: NCD, 1331 F Street, NW., Suite 850, Washington, DC.

AGENCY: NCD.

Status: All parts of these conference calls will be open to the public for observation only. Those interested in observing on conference calls should contact the appropriate staff member listed below. Due to limited resources, only a few telephone lines will be available for each conference call.

Agenda: Roll call, announcements, reports, new business, adjournment.

FOR FURTHER INFORMATION CONTACT: Gerrie Drake Hawkins, Ph.D., Senior Program Analyst, NCD, 1331 F Street, NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *cultural-diversity@ncd.gov (e-mail).*

Cultural Diversity Advisory Committee Mission: The purpose of NCD's Cultural Diversity Advisory Committee is to provide advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. Specifically, the committee will help identify issues, expand outreach, infuse participation, and elevate the voices of