

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 4, 2009, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: April 8, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-8507 Filed 4-14-09; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[USITC SE-09-012]

Government In the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 23, 2009 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.

2. Minutes.

3. Ratification List.

4. Inv. No. 731-TA-1149

(Final)(Circular Welded Carbon Quality Steel Line Pipe from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before May 6, 2009.)

5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: April 13, 2009.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9-8744 Filed 4-13-09; 4:15 pm]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE**Notice of Lodging of Consent Decree Under the Clean Water Act (CWA)**

Notice is hereby given that on March 31, 2009, a proposed Consent Decree in the case of *U.S. v. City of Independence, Missouri*, Civil Action No. 4:09-cv-00240-DGK, was lodged with the United States District Court for the Western District of Missouri.

The United States filed a complaint concurrently with the Consent Decree alleging that on numerous occasions the City of Independence illegally discharged pollutants, including wastewater containing raw sewage, from its sanitary sewer system into waters of the United States in violation of Section 301 of the CWA, 33 U.S.C. 1311. Under the Consent Decree, Independence will pay a civil penalty of \$255,000 and be required to perform a comprehensive assessment of the sanitary sewer system, upgrade its pump stations, and implement improvements to its wastewater collection system and wastewater treatment plant. Independence will also perform supplemental environmental projects valued at \$450,000. The environmental projects are designed to enhance water quality within the Missouri River watershed by improving storm water detention basins and stabilizing stream banks.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and either

e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, the comments should refer to *U.S. v. City of Independence, Missouri*, D.J. Ref. No. 90-5-1-1-08702.

During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax No. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$10.00 (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9-8570 Filed 4-14-09; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE**Drug Enforcement Administration**

[Docket No. 06-11]

Budget Drug and Wellness Center; Declaratory Order Terminating Registration

On August 24, 2005, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause to Budget Drug and Wellness Center (Respondent), of Feasterville, Pennsylvania.¹ The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BB5209223, which authorizes it to dispense controlled substances as a retail pharmacy, and the denial of any pending applications to renew or modify its registration, on the ground that it had committed acts which render its registration inconsistent with the public interest. ALJ Ex. 1.

As grounds for the proceeding, the Show Cause Order alleged, *inter alia*,

¹ Upon the commencement of the proceeding, I also immediately suspended Respondent's registration. On April 12, 2006, the suspension order was withdrawn.

that Respondent had violated its corresponding responsibility under Federal law by filling prescriptions which were not issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice. *Id.* More specifically, the Order alleged that Respondent had “acquired over 15 million dosage units of” such drugs as Didrex and phentermine, which are schedule III and IV controlled substances respectively, and that Respondent was dispensing “huge amounts of dosage units to persons who” obtained prescriptions through the Internet and “who [were] never actually seen or examined by a physician.” *Id.* at 8.

Respondent timely requested a hearing. The matter was placed on the docket of the Agency’s Administrative Law Judges (ALJ), and a hearing was held on March 27 through 29, 2006, at which both parties elicited the testimony of witnesses and introduced various documents into evidence. Following the hearing, both parties submitted briefs containing their proposed findings of fact, conclusions of law, and argument. Moreover, on October 11, 2007, the ALJ invited the parties to submit additional briefs in light of my decision in *United Prescription Services, Inc.*, 72 FR 50397 (2007); both parties did so.

Thereafter, on March 10, 2008, the ALJ issued her recommended decision. In her decision, the ALJ found that Respondent and its owner had repeatedly violated Federal law by filling prescriptions for controlled substances which it had reason to know were unlawful. ALJ at 64–69. The ALJ also found that Respondent’s owner had failed to accept responsibility for her misconduct. *Id.* at 70. The ALJ thus concluded that “Respondent’s continued registration would be inconsistent with the public interest,” and recommended that I revoke its registration and deny any pending applications. *Id.*

On May 2, 2008, Respondent filed exceptions to the ALJ decision. Shortly thereafter, the record was forwarded to me for final agency action.

During the course of reviewing the record, my office determined that on August 12, 2008, Respondent had been acquired by Walgreens. On the same day, Respondent also surrendered its registration certificate, as well as its order forms (DEA Form 222), to the Agency’s Philadelphia Field Division Office. Letter of Charlotte J. Lopacki, R.Ph., to DEA Philadelphia Field Div. Office (August 12, 2008). There is, however, no evidence that Respondent completed a voluntary surrender form.

Based on these acts, I find that Respondent has discontinued business. Under 21 CFR 1301.52(a), “the registration of any person shall terminate if and when such person * * * discontinues business or professional practice.” Accordingly, I will declare that Respondent’s registration has terminated with an effective date of August 12, 2008. And because there are no pending applications before the Agency, I further hold that the Show Cause proceeding is now moot.²

Order

Pursuant to the authority vested in me under 5 U.S.C. 554(e), as well as 28 CFR 0.100(b) & 0.104, I hereby declare terminated as of August 12, 2008, DEA Certificate of Registration, BB5209223, issued to Budget Pharmacy and Wellness Center, of Feasterville, Pennsylvania. Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I further order that the Order to Show Cause issued to Budget Pharmacy and Wellness Center be, and it hereby is, dismissed. This Order is effective immediately.

Dated: April 3, 2009.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E9–8617 Filed 4–14–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 08–50]

Sylvester A. Nathan; Dismissal of Proceeding

On June 25, 2008, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Sylvester A. Nathan, M.D. (Respondent), of Woodridge, Illinois. The Show Cause Order proposed the revocation of Respondent’s DEA Certificate of Registration, AN1430343, which authorized him to dispense controlled substances as a practitioner, and the denial of any pending applications to renew or modify the registration, on the ground that the Illinois Department of Professional Regulation had suspended

² While I have raised the issue of Respondent’s registration status *sua sponte*, in the event Respondent seeks to refute the factual basis upon which I rely, it may do so by filing a motion for reconsideration within fifteen days of the date of service of this Order, which shall begin on the date the Order is mailed.

Respondent’s “state license to handle controlled substances,” and that Respondent is therefore without authority to dispense controlled substances in the State in which he holds his registration. *Id.* at 1.

Respondent timely requested a hearing on the allegations and sought a five-month long continuance of the proceeding. Thereafter, the Government moved to deny Respondent’s request for a continuance and for summary disposition. The basis for the summary disposition motion was that Respondent’s state medical license had been suspended. As support for the motion, the Government attached: (1) A copy of a July 25, 2007 order of the Illinois Department of Financial and Professional Regulation (IDFPR), which indefinitely suspended Respondent’s Illinois Physician and Surgeon’s Certificate until he provided proof that he has passed the Special Purpose Examination (SPEX); and (2) a July 8, 2008 printout of Respondent’s Physician Profile from the IDFPR’s Web site, which indicated that the status of Respondent’s license was “suspended.”

Thereafter, the ALJ issued an Order for Respondent’s Response. On August 11, 2008, Respondent submitted his response in which he acknowledged that since July 25, 2007, he “has no authority to prescribe, handle or [d]ispense any [c]ontrolled medical substances in the state” of Illinois. With the submission, Respondent also enclosed his DEA Certificate of Registration but indicated on the document that it was being “returned under protest.”

Shortly thereafter, the ALJ granted the Government’s motion for summary disposition. ALJ at 6. The ALJ noted that there was no dispute that “Respondent is not authorized to practice medicine in Illinois” and thus could not “prescribe controlled substance in that State.” *Id.* at 5. Applying the Agency’s longstanding interpretation that the Controlled Substances Act precludes the continuation of a registration if the practitioner no longer holds authority to dispense controlled substances in the State in which he practices medicine, *id.* (collecting cases); the ALJ granted the Government’s motion and recommended that Respondent’s registration be revoked and that any pending application be denied.

Respondent did not file exceptions to the ALJ’s decision. On September 11, 2008, the record was forwarded to me for final agency action. Having considered the entire record and having taken official notice of the registration