

public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](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](mailto:tonia.fleetwood@usdoj.gov)), fax number (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 \$26.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Maureen M. Katz,**  
*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*  
 [FR Doc. E8-19704 Filed 8-25-08; 8:45 am]  
**BILLING CODE 4410-CW-P**

**DEPARTMENT OF JUSTICE**

**Notice of Lodging of Consent Decree Under the Clean Air Act and Other Environmental Statutes**

Notice is hereby given that on August 19, 2008, a proposed Consent Decree in *United States v. Burlington Resins, Inc., d/b/a Colorite Specialty Resins, Inc.*, Civil Action No. 08-01432 (RBK), was lodged with the United States District Court for the District of New Jersey.

In this action, the United States sought a civil penalty and injunctive relief for violations of the Clean Air Act, 42 U.S.C. 7401, *et seq.*, the Clean Water Act, 33 U.S.C. 1251, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. 2601, *et seq.*, and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001, *et seq.*, as well as regulations promulgated under those statutes, including the National

Emission Standard for Vinyl Chloride at 40 CFR Part 61, Subpart F, in connection with the polyvinyl chloride manufacturing facility that the settling defendant, Colorite Specialty Resins, Inc. (Colorite), operates at 116 Beverly Road, Burlington, New Jersey. The Consent Decree requires Colorite to implement injunctive relief to bring its facility into compliance, including reducing vinyl chloride emissions, implementing a comprehensive leak detection and repair program, and instituting better hazardous waste handling practices. The Decree also requires Colorite to pay a \$1.3 million civil penalty to the United States and the State of New Jersey and to perform supplemental environmental projects worth \$1.1 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Burlington Resins, Inc., d/b/a Colorite Specialty Resins, Inc.*, D.J. Ref. No. 90-5-2-1-08682.

The Consent Decree may be examined at the Office of the United States Attorney, 970 Broad Street, Suite 700, Newark, N.J. 07102, and at U.S. EPA Region 2, 290 Broadway, New York, N.Y. 10007. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](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](mailto: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 \$21.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Ronald Gluck,**  
*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*  
 [FR Doc. E8-19779 Filed 8-25-08; 8:45 am]  
**BILLING CODE 4410-CW-P**

**DEPARTMENT OF JUSTICE**

**Membership of the Senior Executive Service Standing Performance Review Boards**

**AGENCY:** Department of Justice.  
**ACTION:** Notice of Department of Justice's standing members of the Senior Executive Service Performance Review Boards.

**SUMMARY:** Pursuant to the requirements of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its 2008 Senior Executive Service (SES) Standing Performance Review Boards (PRBs). The purpose of a PRB is to provide fair and impartial review of SES performance appraisals, bonus recommendations and pay adjustments. The PRBs will make recommendations regarding the final performance ratings to be assigned, SES bonuses and/or pay adjustments to be awarded.

**FOR FURTHER INFORMATION CONTACT:** Rod Markham, Director, Human Resources, Justice Management Division, Department of Justice, Washington, DC 20530; (202) 514-4350.

**Lee J. Lofthus,**  
*Assistant Attorney General for Administration.*

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<b>Office of the Deputy Attorney General—DAG</b>	
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Schools, Scott N .....	Associate Deputy Attorney General.
Eisenberg, John A .....	Associate Deputy Attorney General.
Soffer, Gil M .....	Associate Deputy Attorney General.
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Morris, Brenda K .....	Principal Deputy Chief, Public Integrity Section.
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Oosterbaan, Andrew .....	Chief, Child Exploitation and Obscenity Section.
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Painter, Christopher M .....	Deputy Chief, Computer Crime and Intellectual Property Section.
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#### Executive Office for Immigration Review—EOIR

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**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

[Docket No. 08-1]

**Elmer P. Manalo, M.D.; Dismissal of Proceeding**

On August 30, 2007, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and Immediate Suspension of Registration to Elmer P. Manalo, M.D. (Respondent), of Greensburg, Indiana. The immediate suspension of Respondent's registration was based on my preliminary finding that Respondent posed an "imminent danger to public health or safety" because he prescribed schedule II and IV controlled substances to undercover law enforcement personnel on numerous occasions without a legitimate medical purpose and outside the scope of his professional practice. Show Cause Order at 1. The Show Cause Order further alleged that Respondent continued to prescribe controlled substances to certain persons notwithstanding that he had been specifically informed that these persons "were illegitimate drug seekers and addicts," and that several of his patients had "died due to mixed drug intoxication or accidental drug overdose." *Id.* at 2.

Following service of the Show Cause Order, Respondent, through his attorney, requested a hearing on the allegations and the ALJ proceeded to conduct pre-hearing procedures. Meanwhile, on October 2, 2007, the Medical Licensing Board of Indiana summarily suspended Respondent's registration for ninety days effective September 27, 2007. The State Board

subsequently extended the suspension an additional ninety days.

Thereafter, the Government moved for summary disposition on the ground that because Respondent lacked authority under state law to handle controlled substances, he was not entitled to maintain his DEA registration. Gov. Mot. for Summ. Disp. at 1 (citing 21 U.S.C. 801(21); 823(f); & 824(a)(3)). Responding to the Government's motion, Respondent did not dispute that his state license had been suspended. Respondent's Reply to DEA's Motion, at 1. Respondent, however, sought a stay of the issuance of the final order in this matter pending the resolution of the state proceedings.

Based on the undisputed fact that Respondent lacked authority to practice medicine in Indiana, and that it was reasonable to infer that he was also without authority to handle controlled substances under state law, the ALJ granted the Government's motion, noting the settled rule that "DEA does not have statutory authority under the [CSA] to maintain a registration if the registrant is without state authority to dispense controlled substances in the State in which he practices medicine." ALJ Dec. at 3 (citing 21 U.S.C. 823(f) & 824(a)(3)). The ALJ further denied Respondent's request to stay the proceeding. The ALJ then ordered that the hearing be cancelled, recommended that Respondent's registration be revoked and any pending renewal applications be denied, and forwarded the record to me for final agency action.

In reviewing the record, I noted that neither the Show Cause Order nor any other document establishes the status of Respondent's registration or whether Respondent has filed a timely renewal application. I therefore took official notice of the Agency's record pertaining to Respondent's registration. That record indicated that Respondent's

registration expired on January 31, 2008, and that Respondent had not filed a renewal application. *See* 5 U.S.C. 558(c). Accordingly, I found that Respondent is not currently registered with the Agency.

Under DEA precedent, "if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke." *Ronald J. Riegel*, 63 FR 67132, 67133 (1998). In other words, under ordinary circumstances the case is moot.

This case commenced, however, with the issuance of an Order of Immediate Suspension, and this Order was based on allegations that Respondent committed acts which rendered "his registration \* \* \* inconsistent with the public interest." 21 U.S.C. 824(a)(4); *see also* Show Cause Order at 1-2. DEA has recognized a limited exception to the mootness rule in cases which commence with the issuance of an immediate suspension order because of the collateral consequences which may attach with the issuance of such a suspension. *See William R. Lockridge*, 71 FR 77791, 77797 (2006).

I also noted that in moving for summary disposition, the Government did not seek to litigate the allegations of the Order to Show Cause and Immediate Suspension. Rather, it relied on the different ground that Respondent no longer had authority under state law to handle controlled substances and thus was not entitled to be registered. *See* 21 U.S.C. 824(a)(3). I further observed that because Respondent did not file a renewal application, it is unclear whether he intended to remain in professional practice.

Accordingly, on May 6, 2008, I ordered that the parties brief the issue of whether this proceeding remains a live controversy. The Order further directed that if Respondent contended