Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these reviews will be placed in the nonpublic record on August 17, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on September 9, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 30, 2005. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 1, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is August 26, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is September 16, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before September 16, 2005. On September 29, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 3, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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 Fed. Reg. 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (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 reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: May 5, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–9310 Filed 5–9–05; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jay D. Angeluzzi, M.D.; Revocation of Registration

On August 23, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jay D. Angeluzzi, M.D. (Dr. Angeluzzi) who was notified of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AA2504151, pursuant to 21 U.S.C. 824(a)(3) and deny any pending applications under 21 U.S.C. 823(f), on the ground that he lacked state authority to handle controlled substances in the State of Connecticut. The Order to Show Cause also notified Dr. Angeluzzi that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Angeluzzi at his registered address of 9 Mott Avenue, Suite 106, Norwalk, Connecticut 06850. According to the return receipt of the Order, it was accepted on Dr. Angeluzzi's behalf on August 30, 2004. DEA has not received a request for hearing or any other reply from Dr. Angeluzzi or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Order to Show Cause to the registrant's address of record and (2) no request for hearing having been received, concludes that Dr. Angeluzzi is deemed to have waived his hearing right. See David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Angeluzzi is currently registered with DEA as a practitioner authorized to handle controlled substances in Schedules II through V under Certificate of Registration AA2504151, expiring on June 30, 2006. According to information in the investigative file, on February 6, 2004, the Connecticut Department of Public Health, Department of Healthcare Systems (Connecticut Department), filed a Statement of Charges and Motion for Summary Suspension against Dr. Angeluzzi.

The Statement of Charges alleged that Dr. Angeluzzi, an anesthesiologist, suffers from a psychiatric or neurological illness that disables him from practicing medicine and that on July 8, 2003, he failed to meet the applicable standard of care during a caesarian section delivery of a baby. As a consequence of Dr. Angeluzzi's errors, the patient is in a permanent vegetative state. The day after this incident, Dr. Angeluzzi informed his medical partners that he had become completely disabled from the practice of medicine by reason of psychiatric and/or substance abuse conditions. On April 16, 2004, in settlement of the allegations, the Connecticut Department accepted a voluntary surrender of Dr. Angeluzzi's state medicine license. In his accompanying affidavit, Dr. Angeluzzi agreed that if he were to seek reinstatement of his license or applied for a new license, the allegations in the Statement of Charges woud be deemed to be true.

There is no evidence before the Deputy Administrator to rebut a finding that Dr. Angeluzzi's Connecticut

medical license has been surrendered. Therefore, the Deputy Administrator finds that Dr. Angeluzzi is currently not authorized to practice medicine in the State of Connecticut. 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 Richard J. Clement, M.D., 68 FR 12,103 (2003); Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988).

Here, it is clear that Dr. Angeluzzi's state medical license was surrendered after disciplinary proceedings were initiated against him and there is no information before the Deputy Administrator indicating that his license has been reinstated or a new license issued. As a result, Dr. Angeluzzi is not authorized to practice medicine or handle controlled substances in Connecticut, 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, AA2504151, issued to Jay D. Angeluzzi, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of the aforementioned registration be, and hereby are, denied. This order is effective June 9, 2005.

Dated: May 2, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–9247 Filed 5–9–05; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03–25]

ELK International, Inc., d.b.a. Tri-City Wholesale; Denial of Application

On April 11, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to ELK International, Inc., d/b/a Tri-City Wholesale (Respondent/Elk) proposing to deny its application for a DEA Certification of Registration as a distributor of list I chemicals. The Order to Show Cause alleged, in sum that granting the application to distribute list I chemicals to what DEA has identified as the ''gray market,'' would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(h) and 824(a).

Respondent, proceeding pro se, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Gail A. Randall. Respondent subsequently retained counsel and following pre-hearing procedures, a hearing was held in Memphis, Tennessee, on March 9, 2004. At the hearing, both parties called witnesses to testify and introduced documentary evidence. Subsequently, both parties filed Proposed Findings of Fact, Conclusions of Law, and Argument.

On October 7, 2004, Judge Randall issued her Recommended Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Opinion and Recommended Ruling), recommending that Respondent's application to distribute pseudoephedrine and ephedrine chemical products be granted, subject to ''close monitoring'' by DEA. She did recommend denying ELK registration to distribute phenylpropanolamine. The Government filed exceptions to the Opinion and Recommended Ruling and on November 16, 2004, Judge Randall transmitted the record of these proceedings to the 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 hereinafter set forth. Except as otherwise set forth in this final order, the Deputy Administrator adopts the findings of fact and conclusions of law of the Administrative Law Judge. The Deputy Administrator agrees with recommendation that Respondent be denied registration to distribute phenylpropanolamine. However, she disagrees with the recommendation that Respondent be approved to distribute ephedrine and pseudoephedrine, even under monitored conditions.

On May 9, 2002, Respondent, a Tennessee corporation owned by Mr. and Mrs. Nafez Elkhayyat, located in Memphis, submitted its application for registration as a distributor of list I chemicals, seeking approval to distribute pseudoephedrine, ephedrine and phenylpropanolamine.

Prior to moving to Memphis, the Elkhayyats had owned Tri-State Wholesale, Elk International, Inc. (Tri-State), located in East Ridge, Tennessee, a suburb of Chattanooga. In May 2001, Tri-State applied for DEA registration to distribute list I chemicals in an application signed by Mrs. Elkhayyat. During a pre-registration inspection by a Diversion Investigator from DEA's Nashville Office, Mr. Elkhayyat was interviewed and stated he intended to carry whatever products his customers wanted.

Despite having operating a retail grocery store for 27 years, Mr. Elkhayyat had little or no knowledge of listed chemicals, was unaware that they were used in illicit methamphetamine manufacturing and could not identify the names of products containing listed chemicals.

While Tri-State was not registered with DEA, the Diversion Investigator found numerous name-brand products at its facility containing listed chemicals. These included Dayquil, Nyquil, Advil Cold and Sinus, Tylenol Cold and Sinus, Anacin Cough and Cold, Alka Seltzer Plus and Robitussin. Mr. Elkhayyat advised he had purchased these items from a grocery store in Texas and readily agreed to box them up and return them to the supplier, which he did while the Diversion Investigator was still on the premises. He was also provided materials and a briefing regarding the dangers of diversion and the record keeping/reporting requirements for registrants.

An Order to Show Cause proposing to deny Tri-State's application was issued by DEA on May 21, 2002, and sent to the company's address in East Ridge. However, by then the Elkhayyats had moved to Memphis and sold Tri-State's assets to H & R Corporation, d.b.a. Tri-State Wholesale (H & R). At the time, H & R was not seeking to distribute listed chemicals and the Elkhayyats had not retained any ownership or control over H & R. Accordingly, DEA's Office of Chief Counsel directed that Tri-State's application be administratively withdrawn, as the entity submitting it no longer existed.[1]

In June 2002, a different Diversion Investigator than the one who interviewed Mr. Elkhayyat in East Ridge a year earlier, conducted the pre-

[1] It is noted that H & R Corporation's owners subsequently applied for DEA registration to distribute list I chemicals. An Order to Show Cause proposing to deny H & R registration was issued and the matter is currently pending final agency action.