

application.⁶ *Kungys*, 485 U.S. at 770 (internal quotations and other citations omitted).

That the Agency did not rely on Ms. Lawson's false statements and grant Respondent's application does not make the statements immaterial. As the First Circuit has noted with respect to the material falsification requirement under 18 U.S.C. § 1001, "[i]t makes no difference that a specific falsification did not exert influence so long as it had the capacity to do so." *United States v. Alemany Rivera*, 781 F.2d 229, 234 (1st Cir. 1985). See also *United States v. Norris*, 749 F.2d 1116, 1121 (4th Cir. 1984) ("There is no requirement that the false statement influence or effect the decision making process of a department of the United States Government.").

I further conclude that Ms. Lawson's material falsifications cannot be attributed to mere negligence or carelessness, and that she either "knew or should have known" that the statements were false. *Dan E. Hale, D.O.*, 69 FR 69402, 69406 (2004); *The Drugstore*, 61 FR 5031, 5032 (1996). The circumstances surrounding the February 9, 2000 visit, in which Ms. Lawson indicated that she knew the prescription was fraudulent and proceeded to dial the phone number of Dr. Ambrozewicz to demonstrate to the Detective that she knew that the doctor did not exist, are sufficiently different from the typical filling of a prescription that one should accurately recall them. Furthermore, the experience of being indicted and pleading guilty in a federal district court to the unlawful distribution of Percocet on the above date are of such significance that one should have a fairly accurate recollection of the underlying circumstances. Moreover, only three and a half years had elapsed between her criminal conduct in filling the fraudulent prescription and her

submission of the statement.

Significantly, Respondent provided the statement to DEA after the rejection of an earlier application.

I further note that Ms. Lawson did not testify regarding the circumstances surrounding the preparation of the statement. Ms. Lawson's failure to testify on the issue supports an adverse inference that she knew the statements were false. See *William M. Knarr*, 51 FR 2772, 2773 (1986). Cf. *Baxter v. Palmigiano*, 425 U.S. 308, 319 (1976). Both the circumstantial evidence and Ms. Lawson's silence thus support the conclusion that she knowingly made false statements in an attempt to obtain a favorable decision from the Agency on Respondent's application.

I recognize that the ALJ found that Ms. Lawson credibly acknowledged "that she made mistakes" and expressed "remorse for those mistakes." ALJ Dec. at 19–20. But because Ms. Lawson did not address the issues surrounding the material falsification of her statement, the ALJ's findings are relevant only with respect to the issues related to Respondent's dispensing of controlled substances to the two Detectives.

Because Ms. Lawson failed to offer any explanation as to why she submitted her statement, I further conclude that she has not accepted responsibility and expressed remorse for the separate act of misconduct that she committed in submitting her written statement. Her failure to do so precludes a finding that granting Respondent a new registration would be consistent with the public interest.

Order

Pursuant to the authority vested in me by 21 U.S.C. § 823(f), as well as 28 CFR 0.100(b) & 0.104, I order that the application of The Lawsons, Inc., t/a The Medicine Shoppe Pharmacy, for a DEA Certification of Registration as a pharmacy, be, and it hereby is, denied. This order is effective January 30, 2008.

Dated: December 13, 2007.

Michele M. Leonhart,
Deputy Administrator.

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DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

December 17, 2007.

The Department of Labor (DOL) hereby announces the submission the following public information collection

requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: king.darrin@dol.gov.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Carolyn Lovett, OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not a toll-free numbers), E-mail: OIRA_submission@omb.eop.gov within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Request for Information on Earnings, Dual Benefits, Dependents and Third Part Settlements.

OMB Control Number: 1215–0151.

Agency Form Number: CA–1032.

Estimated Number of Annual Respondents: 50,000.

⁶ My decision in *Jackson* is not to the contrary. In *Jackson*, I found that the respondent provided a factually accurate disclosure of his conviction; this act thus rendered immaterial the respondent's "no" answer to question of whether he had been convicted of a controlled substance offense. 72 FR at 23852–53. Similarly, respondent's statement that he had voluntarily surrendered his registration when it had actually been revoked was not consequential in light of fact that no regulation defines the difference between the terms and the respondent had provided an accurate disclosure of the conduct that led to the loss of his registration. *Id.* In addition, I also adopted the ALJ's finding that the respondent had not intentionally falsified his application. *Id.* at 23852.

⁷ The fact that a DEA Diversion Investigator from a local field office may have been present when Ms. Lawson entered her plea, Tr. 174, also does not render her representations immaterial. As the ALJ found, Respondent's application was submitted to a different section of the Agency, ALJ at 11, where it was initially reviewed.

Estimated Total Annual Burden Hours: 16,667.

Total Estimated Annual Cost Burden: \$22,000.

Affected Public: Individuals or households.

Description: In accordance with 20 CFR 10.528, DOL periodically requires each employee who is receiving compensation benefits to complete an affidavit as to any work, or activity indicating an ability to work, which the employee has performed for the prior 15 months. If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss under 5 U.S.C. 8105 or 8106 is suspended until DOL receives the requested report.

The information collected through the Form CA-1032 is used to ensure that compensation being paid is correct. Without this information, claimants might receive compensation to which they were not entitled, resulting in an overpayment of compensation. For additional information, see related notice published on August 29, 2007 at 72 FR 49737.

Agency: Employment Standards Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Worker Information—Terms and Conditions of Employment.

OMB Control Number: 1215-0187.

Agency Form Numbers: WH-516 and WH-516-Espanol.

Estimated Number of Annual

Respondents: 129,250.

Estimated Total Annual Burden

Hours: 77,550.

Total Estimated Annual Cost Burden: \$93,060.

Affected Public: Private Sector: Farms.

Description: Various sections of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1801 et seq., require respondents [i.e., Farm Labor Contractors (FLCs), Agricultural Employers (AGERS), and Agricultural Associations (AGASs)] to disclose employment terms and conditions in writing to: (1) Migrant agricultural workers at the time of recruitment [MSPA section 201(a)]; (2) seasonal agricultural workers, upon request, at the time an offer of employment is made [MSPA section 301(a)(1)]; and (3) seasonal agricultural workers employed through a day-haul operation at the place of recruitment [MSPA section 301(a)(2)]. See 29 CFR 500.75-.76. Moreover, MSPA sections 201(b) and 301(b) require respondents to provide each migrant worker, upon request, with a written statement of the

terms and conditions of employment. See 29 CFR 500.75(d). MSPA sections 201(g) and 301(f) require providing such information in English or, as necessary and reasonable, in a language common to the workers and that the U.S. Department of Labor (DOL) make forms available to provide such information. The DOL prints and makes Optional Form WH-516, Worker Information—Terms and Conditions of Employment, available for these purposes. See 29 CFR 500.75(a), 500.76(a).

MSPA sections 201(a)(8) and 301(a)(1)(H) require disclosure of certain information regarding whether State workers' compensation or state unemployment insurance is provided to each migrant or seasonal agricultural worker. See 29 CFR 500.75(b)(6). For example, if State workers' compensation is provided, the respondents must disclose the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which this notice must be given. See 29 CFR 500.75(b)(6)(i). Respondents may also meet this disclosure requirement, by providing the worker with a photocopy of any notice regarding workers' compensation insurance required by law of the state in which such worker is employed. See 29 CFR 500.75(b)(6)(ii).

The Form WH-516 is an optional form that allows respondents to disclose employment terms and conditions in writing to migrant and seasonal agricultural workers, as required by the MSPA. Respondents may either complete the optional form and use it to make the required disclosures to workers or use the form as a written reflection of the information workers may request from employers under the MSPA. Disclosure of the information on this form is beneficial to both parties in that it enables workers to understand their employment terms and conditions, while also providing respondents with an easy way to disclose the information required by the MSPA and its regulations. For additional information, see related notice published on September 12, 2007 at 72 FR 52166.

Darrin A. King,

Acting Departmental Clearance Officer.

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-59,517]

Advanced Electronics, Inc., Boston, MA; Notice of Negative Determination on Remand

On October 22, 2007, the U.S. Court of International Trade (USCIT) granted the Department of Labor's request for voluntary remand to conduct further investigation in *Former Employees of Advanced Electronics, Inc. v. United States Secretary of Labor* (Court No. 06-00337).

On July 18, 2006, the Department of Labor (Department) issued a Negative Determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of Advanced Electronics, Inc., Boston, Massachusetts (subject firm). AR 60. The Department's Notice of determination was published in the **Federal Register** on August 4, 2006 (71 FR 44320). AR 67.

The petition identified the article produced by the subject workers as "electronics." AR 2. A letter (dated May 8, 2006) identified the subject workers as engaged in the production of "subassembly" printed circuit boards" and alleged that increased imports of that article caused the subject workers' separations. AR 28.

The negative determination stated that the subject workers "were engaged in the production of printed circuit boards (subassembly)" and that the Department's investigation revealed that "the subject firm did not import printed circuit boards" and did not transfer production abroad during the relevant period. The Department's survey of the subject firm's major declining customers regarding their purchases in 2004, 2005, January through May 2005, and January through May 2006 of "printed circuit board (assembly)" revealed no imports during the period under investigation, and that a portion of the decline in company sales is attributed to declining purchases from a foreign customer during the period under investigation. AR 61.

Administrative reconsideration was not requested by any of the parties pursuant to 29 CFR section 90.18.

The Department requested voluntary remand to determine whether, during the relevant period, any of the foreign customer's facilities located in the United States received printed circuit boards produced by the subject firm