15 U.S.C. 4301 *et seq.* (''the Act''), Semiconductor Test Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership.

The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Aeroflex Test Solutions, Stevenage, Hertfordshire, United Kingdom; and Geotest-Marvin Test Systems, Irvine, CA have been added as parties to this venture. Also, Stefan Thurmaier (individual member), Bad Aibling, Germany; Macquaire Electronics, Inc., San Diego, CA; and Billy Antheunisse (individual member), Dallas, TX have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Semiconductor Test Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 27, 2003, Semiconductor Test Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act.

The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 17, 2003 (68 FR 35913).

The last notification was filed with the Department on August 20, 2008. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 18, 2008 (73 FR 54169)

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E8–29293 Filed 12–11–08; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 08–35]

Hicham K. Riba, D.D.S.; Revocation of Registration

On February 1, 2008, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Hicham K. Riba, D.D.S. (Respondent), of Chicago, Illinois. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BR5325091, as a practitioner, on the ground that ''as a result of [disciplinary] action by the Illinois Department of Financial and Professional Regulation,'' Respondent is ''currently without authority to handle controlled substances in * * * Illinois, the [S]tate in which [he is] registered with DEA,'' and is therefore not entitled to maintain his registration. Show Cause Order at 1.

Respondent requested a hearing on the allegation; the matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. Thereafter, the Government moved for summary disposition and to stay further proceedings. Motion for Sum. Disp. at 1–2. The basis for the Government's motion was that on September 29, 2006, the Illinois Department of Professional Regulation suspended Respondent's dental license ''due to gross malpractice, professional incompetence, and dishonorable, unethical or unprofessional conduct.'' *Id.* at 1. Because Respondent lacks authority under Illinois law to dispense controlled substances and was therefore without authority to hold a DEA registration in Illinois, the Government maintained that his registration must be revoked. *Id.* at 1–2.

Respondent opposed the Government's motion. Respondent contended that he was denied a fair hearing in the state proceeding because a member of the Illinois House of Representatives had written the Director of the Illinois Department of Financial and Professional Regulation and urged that Respondent ''should never have his dental license re-instated,'' and ''that this Dentist [should] never be allowed to practice in the State of Illinois * * * again.'' Response to Mot. for Sum. Disp. at 1. Respondent further argued that the letter was an improper *ex parte* communication, which was not made a part of the record as required by state law and which was not disclosed until the Director issued the final decision in the case, in which he rejected the recommendation of the state board that a lesser sanction be imposed. *Id.* at 1–2. Respondent further noted other cases in which dentists who had committed similar acts had received less harsh sanctions and contends that there is ''a reasonable inference that the Director was improperly influenced by the *ex parte* communication and that the [state] proceeding * * * was not fair.'' *Id.* at 3. Finally, Respondent maintained that the authorities cited by the Government in support of its motion were distinguishable because ''those cases did not discuss the issue of improper *ex parte* communication having prejudiced the proceeding of the state licensing agency.'' *Id.* at 4.[1]

The ALJ was not persuaded. The ALJ noted that there was no dispute that Respondent was without authority to dispense controlled substances in Illinois, and that under agency precedent, he was not entitled to a stay of this proceeding during the pendency of his appeal of the state proceeding. ALJ Dec. at 3–4 (citing *Wingfield Drugs, Inc.*, 52 FR 27,070, 27,071 (1987)). The ALJ thus concluded that further delay in ruling on the Government's motion was unwarranted, granted the Government's motion for summary disposition, and recommended that Respondent's registration be revoked and that ''any pending applications be denied.'' *Id* at 4–5. The record was then forwarded to me for final agency action.

Thereafter, Respondent filed exceptions to the ALJ's decision. Respondent's principal argument is that the ALJ's decision was overly broad because it recommended the denial of any pending applications and thus ''goes beyond the scope of this proceeding'' because he had moved to Tennessee and ''was granted a license to practice dentistry in'' that State. Resp. Exceptions at 2–3.

Having considered the entire record in this matter, including Respondent's exceptions, I adopt the ALJ's decision in its entirety. I find that Respondent currently holds DEA Certificate of Registration, BR5325091, which authorizes him to dispense controlled substances in schedules II through V as a practitioner, at the registered location of Little Angel Dental Clinic, 3915 W. 26th Street, Chicago, Illinois. Respondent's registration does not expire until April 30, 2009.

I further find that on September 29, 2006, the Illinois Division of Professional Regulation suspended Respondent's state dental license ''due to gross malpractice, professional incompetence, and dishonorable, unethical or unprofessional conduct.'' Exh. A. to Gov. Motion for Summary Disp. Moreover, I take official notice of the online records of the Illinois Division of Professional Regulation, which indicate that both Respondent's state dental license and his controlled substance license remain suspended.[2]

[1] Respondent further asserted that the proceeding should be stayed pending the resolution of his state appeal.

[2] An agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947). In accordance with the Administrative

Continued

Under the Controlled Substances Act (CSA), ''[a] separate registration [is] required at each principal place of * * * professional practice where the [registrant] dispenses controlled substances,'' 21 U.S.C. 822(e), and a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which he practices'' in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a physician * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice''). *See also id.* § 823(f) (''The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.''). As these provisions make plain, possessing authority to dispense a controlled substance under the laws of the State in which a dentist practices is an essential condition for holding a DEA registration.

Accordingly, DEA has repeatedly held that the CSA requires the revocation of a registration issued to a practitioner whose state license has been suspended or revoked. *See Sheran Arden Yeates,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988). *See also* 21 U.S.C. 824(a)(3)(authorizing the revocation of a registration ''upon a finding that the registrant * * * has had his State license or registration suspended [or] revoked * * * and is no longer authorized by State law to engage in the * * * distribution [or] dispensing of controlled substances'').

Moreover, DEA has repeatedly held ''that a registrant cannot collaterally attack the results of a state criminal or administrative proceeding in a proceeding under section 304 of the CSA.'' *Brenton D. Glisson, M.D.,* 72 FR 54296, 54297 (2007) (quoting *Sunil Bhasin; M.D.,* 72 FR 5082, 5083 (2007)); *see also Shahid Musud Siddiqui,* 61 FR 14818 (1996); *Robert A. Leslie,* 60 FR 14004 (1995)). Respondent's contention that the state proceeding was fundamentally unfair because the Director was improperly influenced by an *ex parte* communication from a member of the Illinois House of Representatives is not addressable in this forum.

Moreover, while it appears that Respondent is seeking judicial review of the state proceeding in the Illinois courts, the suspension nonetheless remains in effect. Respondent therefore remains without authority under Illinois law to dispense controlled substances in the State in which he is registered. Because possessing authority under state law is an essential condition for holding a registration under the CSA, *see* 21 U.S.C. 802(21) & 823(f), and Respondent's Illinois controlled substance license remains suspended, he is not entitled to a stay of this proceeding. *See Wingfield Drugs,* 52 FR at 27071.

Order

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 hereby order that DEA Certificate of Registration, BR5325091, issued to Hicham K. Riba, D.D.S., be, and it hereby is, revoked. I further order that any pending application of Hicham K. Riba, D.D.S., to renew this registration be, and it hereby is, denied.[3] This order is effective January 12, 2009.

December 2, 2008.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E8–29406 Filed 12–11–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Your Druggist Pharmacy; Revocation of Registration

On May 28, 2008, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and Immediate Suspension of Registration to Your Druggist Pharmacy (Respondent), of Coral Springs, Florida. The Order immediately suspended Respondent's DEA Certificate of Registration, AY1916103, which authorizes it to dispense controlled substances as a retail pharmacy, on the grounds that Stanley Dyen, its owner and pharmacist-in-charge, as well as two of its employees, Ira Friedberg, a pharmacist, and Jennifer Lee-Richards, a pharmacy technician, were diverting large quantities of oxycodone, a schedule II controlled substance, and that Respondent's continued registration during the pendency of the proceedings ''constitutes an imminent danger to public health and safety.'' Show Cause Order at 1–2 (citing 21 U.S.C. 824(d) & 841(a)). The Order also proposed the revocation of Respondent's registration, and the denial of any pending applications to renew or modify its registration, on the ground that Respondent's ''continued registration is inconsistent with the public interest.'' Order at 1 (citing 21 U.S.C. 823(f)).

More specifically, the Show Cause Order alleged that between March and June 2007, pharmacy technician Lee-Richards had ''diverted at least 5,900 dosage units of oxycodone, and at least 500 dosage units of alprazolam.'' *Id.* (citing 21 U.S.C. 841(a)(1)). With respect to pharmacist Friedberg, the Order alleged that in February 2008, he had ''diverted at least 7,500 dosage units of oxycodone.'' *Id.* (citing 21 U.S.C. 841(a)(1)).

As to Stanley Dyen, the Order alleged that in February 2008, he had ''diverted at least 500 dosage units of hydrocodone and at least 500 dosage units of alprazolam,'' and that ''[o]n February 18, 2008, [he] was arrested for trafficking in hydrocodone and delivery of alprazolam.'' *Id.* at 1–2. The Order further alleged that notwithstanding Stanley Dyen's arrest, he ''continues to serve on a daily basis as'' Respondent's pharmacist, and that ''[t]he majority of the time, [he] is the sole pharmacist * * * and operates without the supervision of any other pharmacist or employee.'' *Id.* at 2. Finally, the Order alleged that on March 4, 2008, Stanley Dyen had ''transferred ownership of [Respondent] to * * * his wife, without complying with the requirements of 21 CFR 1301.52.'' *Id.*

On June 2, 2008, DEA Investigators went to Respondent and served the Order by handing it to Stanley Dyen. On June 12, 2008, Respondent requested a hearing on the allegations, and the matter was assigned to an Administrative Law Judge (ALJ), who proceeded to conduct pre-hearing procedures. On July 21, 2008, however, Respondent withdrew its request for a hearing. That same day, the ALJ issued an order terminating the proceeding.

Thereafter, the case file was forwarded to me for final agency action pursuant to 21 CFR 1301.43(e). Based on the letter from Respondent's counsel withdrawing its request for a hearing, I

Procedure Act and DEA's regulation, Respondent is ''entitled on timely request to an opportunity to show to the contrary.'' 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). Accordingly, Respondent may file a motion for reconsideration within fifteen days of service of this order which shall commence with the mailing of the order.

[3] There is no evidence in the record as to whether Respondent has applied for a registration in Tennessee. Nor is there any evidence that Respondent requested a modification of his registered location from Illinois to Tennessee. Because this proceeding was based solely on Respondent's loss of authority under Illinois law, it is not *res judicata* on the question of whether granting Respondent a registration to dispense controlled substances in Tennessee would be consistent with the public interest.