Rules of Practice and Procedure (19 CFR 210.42).

Issued: January 29, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–2293 Filed 2–3–09; 8:45 am]

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DEPARTMENT OF JUSTICE

Supplemental Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On January 15, 2009, the Department of Justice published notice of lodging of a proposed Consent Decree on January 9, 2009, with the *United States District Court for the District of Kansas in United States* v. *Citibank Global Market Holdings, Inc.,* Civil Action No. 09–CV–4002–SAC, under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601–9675. *See* 74 FR 2617 (Jan. 15, 2009).

The Department of Justice hereby supplements its Notice to indicate that Citibank Global Market Holdings, Inc., is now known as Citigroup Global Market Holdings, Inc. Accordingly, the settlement parties are the United States, Citigroup Global Market Holdings, Inc., and the U.S. Steel Corporation. This opportunity to comment on the proposed consent decree is extended for 30 days from the date of publication of this Supplemental Notice.

Robert E. Maher, Jr.,

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

[FR Doc. E9–2272 Filed 2–3–09; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ladapo O. Shyngle, M.D.; Denial of Application

On April 15, 2008, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Ladapo O. Shyngle, M.D. (Respondent), of Tampa, Florida. The Show Cause Order proposed the denial of Respondent's pending application for a DEA Certificate of Registration as a practitioner, on the ground that his registration ''would be inconsistent with the public interest.'' Show Cause Order at 1.

More specifically, the Show Cause Order alleged that Respondent had issued controlled-substance prescriptions to customers of an internet site who were located throughout the United States based on a questionnaire and/or telephone consultation, and that these prescriptions lacked ''a legitimate medical purpose'' and were issued ''outside the usual course of professional practice, in violation of 21 CFR 1306.04(a) and 21 U.S.C. 841(a)(1).'' *Id.* The Order further alleged that notwithstanding that his Florida medical license had expired on August 24, 2002, Respondent continued to issue prescriptions for controlled substances. *Id.* Relatedly, the Order alleged that Respondent had violated other state laws prohibiting the unauthorized practice of medicine by issuing prescriptions for controlled substances to residents of States where he was not licensed to practice. *Id.* at 1–2.

On or about April 19, 2008, the Show Cause Order was served on Respondent by delivery to his residence. On May 14, 2008, Respondent requested a hearing on the allegations and the matter was placed on the docket of the Agency's Administrative Law Judges (ALJ).

On the same date, Respondent also sought to withdraw his application, explaining that the State of Florida had criminally charged him with engaging in the unlicensed practice of medicine, that he intended ''to vigorously defend'' against this charge, and that in light of the pending proceeding, it was premature for the Agency to consider his application. On May 29, 2008, the Deputy Assistant Administrator denied Respondent's request, reasoning that ''the facts supporting the Order to Show Cause will not be affected by the outcome of the state prosecution'' and that Respondent ''intend[ed] to continue professional medical practice and * * * reapply for a * * * [r]egistration at the conclusion of the state criminal case.'' Letter from Joseph T. Rannazzisi to Respondent's Counsel (May 29, 2008).

Thereafter, on July 9, 2008, Respondent withdrew his request for a hearing. The next day, the ALJ issued an order terminating the proceeding.

Based on Respondent's letter withdrawing his request for a hearing, I conclude that Respondent has waived his right to a hearing. I therefore enter this Final Order without a hearing based on relevant material contained in the investigate file, *see* 21 CFR 1301.43, and make the following findings.

Findings

On October 3, 2005, Respondent applied for a DEA Certificate of Registration as a practitioner which would authorize him to dispense controlled substances in schedules II through V, at the proposed location of 1493 Tampa Park Plaza, Tampa, Florida. Respondent previously held a practitioner's registration which was issued on December 11, 2000, and which expired on February 29, 2004.

On August 24, 2000, the Florida Department of Health issued a ''medical doctor restricted'' license to Respondent. The license expired, however, on August 24, 2002. Respondent did not obtain another medical license until September 16, 2005, when the Florida Department of Health issued him a ''medical doctor'' license. This license remains in effect until January 31, 2010. I further find that Respondent was not licensed in any other State when he committed the acts at issue here.

In 2002, Respondent was hired by Kenneth Shobola, the owner of a Tampa, Florida medical clinic (the Kenaday Medical Clinic), to perform consultations on persons who were seeking prescriptions for controlled substances through Shobola's Web sites. While Respondent saw some walk-in patients at the clinic, in an interview with DEA Investigators, he admitted that he saw only about five percent of the persons he prescribed to, and that his contact with most of the patients was limited to a telephone consultation which lasted five to ten minutes.

Based on the consultations, Respondent would then typically issue a prescription for a schedule III controlled substance containing hydrocodone; Respondent also issued prescriptions for diazepam (Valium), a schedule IV controlled substance, 21 CFR 1308.14(c), and some non-controlled drugs. While the prescriptions were initially filled at F & B Pharmacy (another Tampa-based pharmacy which was operated by Olu Oyekoya), F & B eventually pulled out of the arrangement and all of the prescriptions were then filled by Ken Drugs, a pharmacy owned by Shobola.

Respondent would perform up to twenty consultations a day for Shobola's clinic. According to computer records obtained by Investigators, Respondent issued over 3800 prescriptions which were filled by Shobola's pharmacy. Approximately seventy-five percent of the prescriptions were for hydrocodone, and between the original prescriptions and refills, Respondent authorized the dispensing of more than 500,000 dosage

units of the drug. Moreover, the prescriptions were issued to persons in forty-one different States.

When asked by Investigators how he had established a doctor-patient relationship with the patients he did not see, Respondent maintained that he did so because he ''actually spoke to the patient on the phone,'' and that the Web site which arranged the consultations had the patient's medical records and ''the driver's license to identify the patient.'' Respondent admitted, however, that because of the number of ''consults,'' ''seventy percent'' of the time he did not see a patient's medical records until after he had issued the prescription. Respondent also admitted that there were occasions when he never saw a patient's medical records. Respondent even admitted that ''we did do refills for patients'' who had not submitted records because ''the patient [was] already in the system, [and] we already kn[ew] about this patient.'' [1]

Respondent further stated that he was ''not sure whether the law actually gives specific guidelines as to what constitutes the patient/physician relationship because * * * when the laws were drawn there was no internet.'' When asked whether he was saying that he did not know if his prescribing was legal because he did not know the law, Respondent replied: ''No, what I'm saying is * * * I think the law the way it stands * * * makes a loophole available in terms of * * * what constitutes [the] patient/doctor relationship, when you * * * talk to the patient on the phone. * * * [T]hat is a leeway that's provided and that's what I had in mind when I got involved with * * * the whole thing.''

Respondent acknowledged, however, that this method of prescribing ''certainly'' opened the door to drug abuse and that ''providing medication through the internet has to provide safeguards to make sure that the patients are genuine, [that] they're not getting multiple drugs from different doctors and that * * * they actually have the problem that they're taking about.'' Moreover, Respondent stated to Investigators that ''the way we practiced * * * in Kennedy there's no way you could get all of those [illegitimate patients] out of the system * * * 100% of the time.'' Respondent further asserted that ''there was a good proportion of people that actually needed help that got the help,'' but acknowledged that ''there were quite a few that [were] just doctor hopping or * * * shopping for medication.''

As examples of Respondent's prescribing, the Government submitted copies of fourteen prescriptions which Respondent issued for such drugs as Norco (10/325 mg.), Lortab (10/500 mg.), Vicoprofen (7.5/200 mg.), and Vicodin (7.5/750 mg.), all of which are schedule III controlled substances containing hydrocodone. Most of the prescriptions were issued between October and December 2003, and were issued to patients in California, Massachusetts, Ohio, Oklahoma, Tennessee, Wisconsin, Washington (State), Mississippi, South Carolina, and Virginia.

Respondent also prescribed controlled substances to a married couple (Mr. & Mrs. C.W.), who had used driver's licenses and medical records of friends and family members, as well as falsified medical records (including MRIs), in order to create multiple identities and obtain larger quantities of drugs such as hydrocodone and alprazolam. The C.Ws. both consumed and sold the drugs.

Discussion

Section 303(f) of the Controlled Substances Act (CSA) provides that ''[t]he Attorney General may deny an application for [a practitioner's] registration if he determines that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination, the Act requires the consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

[T]hese factors are * * * considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether an application for a registration should be denied. *Id.* Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005).

Having considered all the factors, I find that factors two and four provide ample support for the conclusion that granting Respondent's application for a registration would be ''inconsistent with the public interest.'' [2] 21 U.S.C. 823(f). Respondent's application will therefore be denied.

Factor Two and Four—Respondent's Experience in Dispensing Controlled Substances and Record of Compliance With Applicable Controlled Substance Laws

Under a longstanding DEA regulation, a prescription for a controlled substance is not ''effective'' unless it is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning and intent of [21 U.S.C. 829] and * * * the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.'' *Id.* As the Supreme Court recently explained, ''the prescription requirement * * * ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135 (1975)).

Under the CSA, it is fundamental that a practitioner must establish a bonafide

[1] Respondent also acknowledged that a patient had to have a physical exam at some point and maintained that the clinic had hired either nurses or paramedics to perform physical exams on patients. Even if true, this does not aid Respondent for two reasons: (1) Respondent has not established the circumstances in which it may be lawful under the laws of the various States for a physician to rely on a physical examination performed by a nurse or paramedic, and (2) Respondent acknowledged that seventy percent of the time he did not see the records until after he prescribed. Respondent thus routinely prescribed without any independent assessment and verification of his patients' medical complaints.

[2] I acknowledge that there is no evidence that the State of Florida has taken any action against Respondent's authority under State law to prescribe controlled substances. This Agency has long held, however, that a State's failure to take action against a practitioner's authority to dispense controlled substances is not dispositive in determining whether the granting of an application for registration would be consistent with the public interest. *See Mortimer B. Levin,* 55 FR 8209, 8210 (1990). I further note that Respondent alluded to his intention to vigorously contest a pending criminal charge based on his having engaged in the unlicensed practice of medicine. Under agency precedent, even if Respondent is acquitted of the charge(s), the judgment would not be dispositive in this proceeding, which focuses on the public interest. *Edmund Chein,* 72 FR 6580, 6593 n.22 (2007).

doctor-patient relationship in order to act ''in the usual course of * * * professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *Moore,* 423 U.S. at 141–43. At the time of the events at issue here, the CSA generally looked to state law to determine whether a doctor and patient have established a bonafide doctor-patient relationship. *See Kamir Garces-Mejias,* 72 FR 54931, 54935 (2007); *United Prescription Services, Inc.,* 72 FR 50397, 50407 (2007); *Dispensing and Purchasing Controlled Substances Over the Internet,* 66 FR at 21182–83.[3]

Moreover, shortly after the CSA's enactment, the Supreme Court explained that ''[i]n the case of a physician [the Act] contemplates that *he is authorized by the State to practice medicine* and to dispense drugs in connection with his professional practice.'' *Moore,* 423 U.S. at 140–41 (emphasis added). Accordingly, ''[a] physician who engages in the unauthorized practice of medicine'' under state laws ''is not a 'practitioner acting in the usual course of * * * professional practice' '' under the CSA. *United Prescription Services,* 72 FR at 50407 (quoting 21 CFR 1306.04(a)). This rule is supported by the plain meaning of the Act, which defines the ''[t]he term 'practitioner' [to] mean[] a physician * * * licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices * * * to * * * dispense * * * a controlled substance,'' 21 U.S.C. 802(21), and ''[t]he term 'dispense' [to] mean[] to deliver a controlled substance to an ultimate user * * * by, or pursuant to the lawful order of, a practitioner.'' *Id.* section 802(10). *See also id.* section 823(f) (''The Attorney General shall register practitioners * * * to dispense * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.'').

A controlled-substance prescription issued by a physician who lacks the license or other authority required to practice medicine within a State is therefore unlawful under the CSA. *See* 21 CFR 1306.04(a) (''An order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning an intent of'' the CSA); *Cf.* 21 CFR 1306.03(a)(1) (''A prescription for a controlled substance may be issued only by an individual practitioner who is * * * [a]uthorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession[.]'').

The investigative file establishes numerous instances in which Respondent violated the prescription requirement of Federal law as well as various state laws. As found above, Respondent's initial Florida medical license expired on August 24, 2002, and Respondent did not obtain a new Florida license until September 16, 2005. Thus, at the time Respondent prescribed controlled substances to many of the customers of the Kenaday Medical Clinic, he did not even have authority to prescribe under Florida law, let alone the laws of the forty other States where his patients resided. *See* Fla. Stat. §§ 456.065 (2003); 458.327(1)(a) (2003); *see also, e.g.*, Cal. Bus. & Prof. Code section 2052(a) (2003) (prohibiting unlicensed practice of medicine); Cal. Health & Safety Code section 11352(a) (2003) (prohibiting furnishing of a controlled substance ''unless upon the written prescription of a physician * * * licensed to practice in this state''); Tenn. Comp. R. & Regs. 0880–2.16 (2003) (requiring license to ''engage in the practice of medicine across state lines in this State'').

As the California Court of Appeal has noted, the ''proscription of the unlicensed practice of medicine is neither an obscure nor an unusual state prohibition of which ignorance can reasonably be claimed, and certainly not by persons * * * who are licensed health care providers. Nor can such persons reasonably claim ignorance of the fact that authorization of a prescription pharmaceutical constitutes the practice of medicine.'' *Hageseth* v. *Superior Court*, 59 Cal. Rptr.3d 385, 403 (Ct. App. 2007). In issuing thousands of prescriptions while lacking the authority to do so under the laws of both Florida and the States where the patients resided, Respondent acted outside of ''the usual course of * * * professional practice'' and thereby violated the prescription requirement of the CSA (as well as numerous state laws). *See Moore,* 423 U.S. at 140–41; *United Prescription Services,* 72 FR at 50407; 21 CFR 1306.03.

Respondent violated the CSA's prescription requirement for an additional reason because he did not establish a bonafide doctor-patient relationship with the customers of the Web site. As Respondent admitted to the Investigators, with the possible exception of the small number of customers who appeared at the clinic, Respondent prescribed on the basis of a telephonic consultation and did not personally conduct a physical exam and take a medical history from the patients.

In his interview with the Investigators, Respondent gave two justifications for his prescribing. First, Respondent maintained that the law did not provide specific guidelines that addressed what constitutes a valid doctor-patient relationship in the context of the internet, asserting that those laws were enacted when ''there was no internet,'' and that he acted within a loophole. Second, he maintained that the clinic had hired nurses or paramedics who visited the patients and performed physical exams on them.

As for his first contention, at the time Respondent issued the prescriptions at issue here, numerous States had already adopted laws or regulations, or had issued policy statements, which made clear that Respondent's internet prescribing practices were illegal. *See, e.g.*, Cal. Bus. & Prof. Code section 2242.1(a); Tenn. Comp. R. & Regs. 0880–2.14(7) (2003) (''Prerequisites to Issuing Prescriptions''; prohibiting the prescribing or dispensing of ''any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed * * * an appropriate history and physical examination''); Ohio Admin. Code 4731–11–09(A) (2003) (''Except in institutional settings, on call situations, cross coverage situations, situation involving new patients, protocol situations involving nurses practicing in accordance with standard care arrangements * * * a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.''); Oklahoma State Board of Medical Licensure and Supervision, *Policy on Internet Prescribing* (Ratified 01/25/01) (''Unprofessional conduct includes 'prescribing * * * a drug * * * without sufficient examination and the

[3] On October 15, 2008, the President signed into law the Ryan Haight Online Pharmacy Consumer Protection Act of 2008, Public Law 110–425, 122 Stat. 4820 (2008). Section 2 of the Act prohibits the dispensing of a prescription controlled substance ''by means of the Internet without a valid prescription,'' and defines, in relevant part, ''[t]he term 'valid prescription' [to] mean[] a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by * * * a practitioner who has conducted at least 1 in-person medical evaluation of the patient.'' 122 Stat. 4820. Section 2 further defines ''[t]he term 'in-person medical evaluation' [to] mean[] a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.'' *Id.* These provisions do not, however, apply to Respondent's conduct.

establishment of a valid physician/patient relationship' * * *. The members of the Oklahoma Medical Board have interpreted that a 'sufficient examination' and 'establishment of a valid physician/patient relationship' cannot take place without an initial face to face encounter with the patient.'') (emphasis in original and quoting Okla. Stat. tit. 59, section 509–13).

No more persuasive is Respondent's contention that his prescribings were lawful because the clinic used nurses or paramedics to perform physical examinations. Respondent did not provide any evidence to the Agency that the clinic's purported use of nurses to perform physical examinations was a lawful practice under the exceptions recognized by any State.[4]

Moreover, Respondent admitted to the Investigators that he routinely prescribed before he obtained medical records and in some cases he never reviewed records. Thus, even if some States allowed a physician to prescribe based on an exam performed by a nurse or paramedic in certain defined circumstances, a physical examination is a prerequisite to establishing a valid doctor-patient relationship. *See* Tenn. Comp R. & Regs 0880–2-.14(7). Generally, reviewing an examination conducted after the issuance of a prescription is not the usual course of professional practice.[5] I thus conclude that Respondent lacked a legitimate medical purpose and acted outside of the usual course of professional practice in issuing the prescriptions.

Respondent's prescribing practices clearly resulted in the diversion of controlled substances. As Respondent acknowledged in the interview, ''there were quite a few [patients] that [were] just doctor hopping or * * * shopping for medication.'' [6] Indeed, as the record establishes, Respondent prescribed to two people who used falsified records and the driver's licenses of other persons, to obtain such highly abused controlled substances as hydrocodone and alprazolam, which they both personally abused and sold to others. Given the thousands of prescriptions he issued in this manner, there were likely numerous other instances in which he prescribed to persons who were seeking the drugs for illicit purposes.

It is therefore clear that Respondent committed acts which establish that granting him a new registration would be ''inconsistent with the public interest.'' 21 U.S.C. 823(f).[7] Respondent's application will therefore be denied.

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 Ladapo O. Shyngle, M.D., for a DEA Certificate of Registration as a practitioner be, and it hereby is, denied. This order is effective March 6, 2009.

Dated: January 27, 2009.

Michele M. Leonhart,

Deputy Administrator.

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[4] Even if some States authorize a physician to prescribe in some circumstances based on a physical exam performed by a nurse, Respondent was required to comply with the law of every State in which his patients resided. In any event, Respondent did not establish that his prescribing was lawful under the law of any State.

[5] It is acknowledged that the States generally allow a practitioner to issue a prescription in an emergency situation before conducting a physical exam. *See* 49 Pa. Code § 16.92(a). Some States also allow a practitioner to issue a short term continuation prescription for a new patient prior to a patient's first appointment, in an order admitting a patient to a hospital, or for a patient of another physician for whom the prescriber is taking calls. Tenn. Comp. R. & Regs. 0880–2-.14(7)(b). None of these exceptions apply here.

[6] I reject as self-serving Respondent's assertion that he believed that ''a good proportion of [the] people [he prescribed to] actually needed help'' because their original doctors had become ''weary'' of continuing to prescribe narcotics to them. Notably, Respondent did not identify a single instance in which he contacted the original physicians of the patients to even determine whether a patient had a legitimate medical condition which required the continued prescribing of a controlled substance. As Respondent himself recognized, internet prescribing invites ''doctor hopping'' and ''medication shopping'' by drug abusers and drug dealers. In short, as this Agency has found in the course of numerous investigations, the risk of diversion inherent in internet prescribing is extraordinary.

[7] In his request for a hearing, Respondent ''disagreed * * * that [the] prescriptions were issued without a legitimate medical purpose and outside the usual course of professional practice.'' While Respondent's counsel further represented that he did not intend to ''practic[e] medicine in any way related to an Internet pharmacy,'' Respondent has not satisfied the Agency's standard for obtaining a new registration, which requires that an applicant accept responsibility for his misconduct and acknowledge his wrongdoing. *See, e.g., Medicine Shoppe—Jonesborough,* 73 FR 364, 387 (2008) (collecting cases), *aff'd, Medicine Shoppe-Jonesborough* v. *DEA,* slip op. at 9–10 (6th Cir. Nov. 13, 2008); *Hoxie* v. *DEA,* 419 F.3d 477, 483 (6th Cir, 2005) (''admitting fault'' is ''properly consider[ed]'' by DEA to be an ''important factor[]'' in the public interest determination).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 06–72]

Foothills Family Pharmacy (Boulder) and Foothills Family Pharmacy (Lafayette); Declaratory Order Terminating Registrations

On August 14, 2006, the Deputy Assistant Administrator, Office of Diversion Control, issued an Order to Show Cause to Foothills Family Pharmacy of Boulder, Colorado, and Foothills Family Pharmacy of Lafayette, Colorado (Respondents). The Order proposed the revocation of each Respondent's DEA Certificate of Registration as a retail pharmacy, and the denial of any applications filed by either Respondent to renew or modify its registration, on the ground that each Respondent's ''continued registration would be inconsistent with the public interest.'' Show Cause Order at 1. More specifically, the Order alleged that each pharmacy had violated its ''corresponding responsibility'' under Federal law by filling prescriptions for controlled substances which were unlawful because they were not '' 'issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.' '' *Id.* at 3 (quoting 21 CFR 1306.04(a)).

Respondents requested a hearing on the allegations, and the matter was placed on the docket of the Agency's Administrative Law Judges (ALJ). Following prehearing procedures, the parties agreed to submit documents and written statements of position to the ALJ in lieu of a trial-type hearing. Subsequent to their filings, the parties also submitted briefs containing their proposed conclusions of law and arguments.

On June 20, 2008, the ALJ issued her recommended decision. In her decision, the ALJ concluded that the Government had established that each ''Respondent's continued registration would be inconsistent with the public interest.'' ALJ at 42. The ALJ thus recommended that each Respondent's registration be revoked and that any pending applications be denied. The record was then forwarded to me for final agency action.

Thereafter, the Government obtained information that each Respondent was closed and no longer conducting business. Gov. Mot. for Declaratory Order at 2. Accordingly, the Government filed a motion seeking an order declaring each Respondent's registration terminated on the ground