During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $44.25 (with all attachments) or $9.00 (without attachments) (25 cents per page reproduction cost) payable to the United States Treasury.

**Maureen Katz,**

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

[FR Doc. 2013–11107 Filed 5–9–13; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—3D PDF Consortium, Inc.

Notice is hereby given that, on April 19, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), 3D PDF Consortium, Inc. (''3D PDF'') 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, INTRATECH Corporation, Mapo-gu, Seoul, REPUBLIC OF KOREA, has been added as a party to this venture. In addition, Boeing Shared Services Group has changed its name to The Boeing Company, Seattle, WA.

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 3D PDF intends to file additional written notifications disclosing all changes in membership.

On March 27, 2012, 3D PDF 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 April 20, 2012 (77 FR 23754).

The last notification was filed with the Department on November 8, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 4, 2012 (77 FR 71831).

**Patricia A. Brink,**

*Director of Civil Enforcement, Antitrust Division.*

[FR Doc. 2013–11113 Filed 5–9–13; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 12–1]**

### Jose G. Zavaleta, M.D.; Decision and Order

On May 10, 2012, Administrative Law Judge Gail A. Randall issued the attached Recommended Decision.[1] Neither party filed exceptions to the Recommended Decision.

Having reviewed the record in its entirety, I have decided to adopt the ALJ's recommended rulings, findings of fact, conclusions of law, and recommended sanction, except for her discussion that the findings of a prior agency order denying a previous application filed by Respondent, *see Jose Gonzalo Zavaleta,* 76 FR 49506 (2011), were not entitled to *res judicata* effect because they were issued in a proceeding in which Respondent waived his right to a hearing. ALJ at 12–13 (citing *Robert M. Golden,* 65 FR 5663 (2000)). While the ALJ was bound by the existing Agency precedent on the issue, I conclude that a re-examination of the issue is warranted and overrule *Golden.* However, because this has no effect on the outcome, I will adopt the ALJ's recommended sanction and will order that Respondent's application for a DEA Certificate of Registration as a practitioner be denied.

### The ALJ's Ruling on Whether the Prior Agency Order Denying Respondent's Application Is Entitled to *Res Judicata* Effect

On February 23, 2009, the Deputy Assistant Administrator, DEA Office of Diversion Control, issued an Order to Show Cause to Respondent which proposed the denial of the application for registration submitted by him on July 28, 2008. *See Jose Gonzalo Zavaleta,* 76 FR at 49506. The Show Cause Order was based on allegations that Respondent had issued multiple controlled-substance prescriptions to undercover officers (UCs) and that he lacked a legitimate medical purpose and violated federal law in doing so because he either performed a cursory medical examination or failed to perform any medical examination. *Id.* Respondent failed to request a hearing on the allegations. *Id.*

On July 27, 2011, this Agency issued a Decision and Order denying the application which Respondent submitted on July 28, 2008. *Id.* at 49508. The Agency's denial of Respondent's application was based on the evidence submitted by the Government showing that two officers from the Louisiana State Police had made undercover visits to Respondent on various occasions, during which they obtained from him prescriptions for controlled substances including hydrocodone, alprazolam, and Phenergan with codeine. *Id.* With respect to UC1, who visited him on January 23, 2008, the evidence showed that he asked Respondent for Lortab and initially denied that he was in pain; nonetheless, Respondent issued him a prescription for Lortab after UC1 stated (falsely) that he had a sexually transmitted disease, and that Respondent did so without performing a physical examination. *Id.* at 49506.

Likewise, with respect to UC2, the Agency found that while she initially denied being in pain, Respondent prescribed hydrocodone to her. *Id.* Moreover, on a subsequent visit, Respondent prescribed Phenergan, a narcotic cough syrup, even though UC2 had no symptoms of cough or congestion, as well as more hydrocodone. *Id.* Finally, at UC2's third visit, Respondent prescribed hydrocodone as well as Xanax to her. *Id.* At no time did Respondent obtain UC2's medical records or perform a physical examination on her. *Id.* Rather, Respondent coached UC2 as to what to say to justify the issuance of the prescriptions. *Id.*

Based on these findings, the Agency concluded that Respondent had failed to establish a physician-patient relationship with the UCs and therefore lacked a legitimate medical purpose and acted outside of the usual course of professional practice when he prescribed controlled substances to them. *Id.* at 49508 (citing 21 U.S.C. 1306.04(a); 21 U.S.C. 841(a)(1); *Louisiana* v. *Moody,* 393 So.2d 1212, 1215 (La. 1981)).

During the course of the instant proceeding, the ALJ directed the parties to address ''whether the doctrine of *res judicata* applies to the Final Order'' and ''thus bar[s] Respondent from 'relitigat[ing] the factual findings and conclusions of law of the prior proceeding.' '' ALJ at 12. (quoting *Robert*

[1] All citations to the Recommended Decision are to the ALJ's slip opinion.