Dated: June 9, 2013.

Michele M. Leonhart,

Administrator.

[FR Doc. 2013–14447 Filed 6–17–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

David M. Lewis, D.M.D., Dismissal of Proceeding

On December 5, 2012, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David M. Lewis, D.M.D. (Registrant), of Sacramento, California. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration BL7253115, and the denial of any pending application to renew or modify his registration, on the ground that he lacks authority to handle controlled substances in California, the State in which he is registered with DEA. Show Cause Order at 1 (citing 21 U.S.C. 823(f) & 824(a)(3)). Show Cause Order at 1. The Order also alleged that Registrant's registration ''will expire by its terms on March 31, 2013.'' *Id.*

Specifically, the Show Cause Order alleged that on February 24, 2012, the Dental Board of California suspended Registrant's dental license, based ''on multiple findings'' that he performed ''unnecessary dental work'' and filed ''fraudulent insurance claims.'' *Id.* The Order further alleged that as a result of the suspension, Registrant is without authority to handle controlled substances in California, the State in which he is registered, and therefore, his registration is subject to revocation. *Id.* at 1–2 (citations omitted). The Show Cause Order also notified Registrant of his right to request a hearing on the allegations, or to submit a written statement in lieu of a hearing, the procedure for doing either, and the consequence for failing to do either. *Id.* at 2 (citing 21 CFR 1301.43).

According to the declaration of an Agency Diversion Investigator (DI), on December 18, 2012, he ''traveled to the office of Robert Zaro, Esq., who is the attorney for [Registrant].'' GX 3, at 1–2. The DI further stated that ''[a]fter [he] spoke about the nature of the [Show Cause Order], Robert Zaro requested to take possession of the [Order] for his client.'' *Id.* at 2.

Thereafter, on February 8, 2013, the Government submitted a Request for Final Agency Action to my Office. Therein, the Government maintains that more than thirty days have passed since the Order ''was served on Respondent and no request for [a] hearing has been received.'' Gov. Req. for Final Agency Action, at 1. The Government therefore seeks a final order revoking Respondent's registration. *Id.*

I reject the Government's request for two reasons. First, contrary to the Government's understanding, it has not properly served Respondent. Second, even had I concluded that service was proper, I would hold that the case is now moot.

As for whether service was proper, 21 U.S.C. 824(c) provides that ''[b]efore taking action pursuant to this section . . . the Attorney General shall serve *upon the . . . registrant* an order to show cause why registration should not be . . . revoked[] or suspended.'' (emphasis added). As the DI's affidavit makes clear, the Government did not serve the Show Cause Order ''upon the . . . [R]egistrant,'' *id.,* but on an attorney who, according to the DI, is the Registrant's attorney.

However, ''[n]umerous Federal Courts have held that '[t]he mere relationship between a defendant and his attorney does not, in itself, convey authority to accept service.''' *Harbinson* v. *Commonwealth of Virginia,* 2010 WL 3655980, at *9 (E.D. Va. Aug. 11, 2010) (quoting *Davies* v. *Jobs & Adverts Online, Gmbh,* 94 F.Supp.2d 719, 722 (E.D. Va. 2000)). *See also United States* v. *Ziegler Bolt & Parts Co.,* 111 F.3d 878, 881 (Fed. Cir. 1997); *Grandbouche v. Lovell,* 913 F.2d 835, 837 (10th Cir. 1990); *Ransom* v. *Brennan,* 437 F.2d 5134, 518–19 (5th Cir. 1971). '''Rather, the party seeking to establish the agency relationship must show ''that the attorney exercised authority beyond the attorney-client relationship, including the power to accept service.'''''' *Harbinson,* 2010 WL 3655980, at * 9 (quoting *Davies,* 94 F.Supp.2d at 722 (quoting Ziegler, 111F.3d at 881)).

While an attorney's authority to act as an agent for the acceptance of process ''may be implied from surrounding circumstances indicating the intent of'' his client, *In re Focus Media Inc.,* 387 F.3d 1077, 1082 (9th Cir. 2004) (other citation and internal quotations omitted), ''an agent's authority to act cannot be established solely from the agent's actions.'' *Id.* at 1084. ''Rather, the authority must be established by an act of the principal.'' *Id.* (citing *FDIC* v. *Oaklawn Apartments,* 959 F.2d 170, 175 (10th Cir. 1992)).

Here, the only evidence submitted by the Government as to whether Registrant's attorney was authorized to accept the Show Cause Order on his behalf was the DI's statement that the attorney requested to take possession of the Order. In short, the Government offered no evidence of an act of the Registrant establishing that he had granted authority to the attorney to accept process on his behalf. *Focus Media,* 387 F.3d at 1084. Accordingly, I hold that the Government has not properly served Registrant. I therefore reject its request for a final order.[1]

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b) and 0.104, I order that the Order to Show Cause issued to David M. Lewis, D.M.D., be, and it hereby is, dismissed.

Dated: June 11, 2013.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2013–14453 Filed 6–17–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; Lipomed

Pursuant to Title 21 Code of Federal Regulations 1301.34 (a), this is notice that on March 22, 2013, Lipomed, One Broadway, Cambridge, Massachusetts 02142, made application by renewal to the Drug Enforcement Administration (DEA) for registration as an importer of the following basic classes of controlled substances:

[1] Even had I found that the Government properly served Registrant, I would dismiss this matter as moot. As noted above, Respondent's registration was due to expire on March 31, 2013. Accordingly, I have taken official notice of the registration records of this Agency. *See* 5 U.S.C. 556(e). Those records show that Registrant's registration expired on March 31, 2013, that he did not file a renewal application (whether timely or not), and that his registration was retired on May 1, 2013.

It is well settled that ''[i]f a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke.'' *Ronald J. Riegel,* 63 FR 67132, 67133 (1998); *see also William W. Nucklos,* 73 FR 34330 (2008). So too, because Registrant did not file a renewal application, there is no application to act upon. *See Nucklos,* 73 FR at 34330. Accordingly, there is neither a registration, nor an application, to act upon, and had the Government properly served Registrant, I would nonetheless hold that the case is moot.

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
4-Mephedrone (1248)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Fenethylline (1503)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590)	I
Gamma Hydroxybutyric Acid (2010)	I
Methaqualone (2565)	I
Mecloqualone (2572)	I
JWH–250 (6250)	I
SR–18 (Also known as RCS–8) (7008)	I
JWH–019 (7019)	I
JWH–081 (7081)	I
SR–19 (Also known as RCS–4)(7104)	I
JWH–018 AND AM–678 (7118)	I
JWH–122 (7122)	I
JWH–073 (7173)	I
JWH–200 (7200)	I
AM–2201 (7201)	I
JWH–203 (7203)	I
Alpha-ethyltryptamine (7249)	I
Ibogaine (7260)	I
CP–47497 (7297)	I
CP–47497 C8 Homologue (7298)	I
Lysergic acid diethylamide (7315)	I
2C–T–7 (7348)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Parahexyl (7374)	I
Mescaline (7381)	I
2C–T–2 (7385)	I
3,4,5-Trimethoxyamphetamine (7390)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
JWH-398 (7398)	I
2,5-Dimethoxy-4-ethylamphetamine (7399)	I
3,4-Methylenedioxyamphetamine (7400)	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401)	I
N-Hydroxy-3,4-methylenedioxyamphetaimine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
5-Methoxy-N–N-dimethyltryptamine (7431)	I
Alpha-methyltryptamine (7432)	I
Bufotenine (7433)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
5-Methoxy-N,N-diisopropyltryptamine (7439)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470)	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine (7473)	I
N-Ethyl-3-piperidyl benzilate (7482)	I
N-Methyl-3-piperidyl benzilate (7484)	I
N-Benzylpiperazine (7493)	I
2C-D (7508)	I
2C-E (7509)	I
2C-H (7517)	I
2C-I (7518)	I
2C-C (7519)	I
2C-N (7521)	I
2C-P (7524)	I
2C-T-4 (7532)	I
MDPV (7535)	I
Methylone (7540)	I
AM–694 (7694)	I
Acetyldihydrocodeine (9051)	I
Benzylmorphine (9052)	I
Codeine-N-oxide (9053)	I
Cyprenorphine (9054)	I
Desomorphine (9055)	I

Drug	Schedule
Etorphine (except HCl) (9056)	I
Codeine methylbromide (9070)	I
Dihydromorphine (9145)	I
Difenoxin (9168)	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Methyldesorphine (9302)	I
Methyldihydromorphine (9304)	I
Morphine methylbromide (9305)	I
Morphine methylsulfonate (9306)	I
Morphine-N-oxide (9307)	I
Myrophine (9308)	I
Nicocodeine (9309)	I
Nicomorphine (9312)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Thebacon (9315)	I
Acetorphine (9319)	I
Acetylmethadol (9601)	I
Allylprodine (9602)	I
Alphacetylmethadol except levo-alphacetyl-methadol (9603)	I
Alphamethadol (9605)	I
Dioxaphetyl butyrate (9621)	I
Dipipanone (9622)	I
Elhylmethylthiambutene (9623)	I
Etonitazene (9624)	I
Etoxeridine (9625)	I
Furethidine (9626)	I
Hydroxypethidine (9627)	I
Ketobemidone (9628)	I
Levomoramide (9629)	I
Levophenacylmorphan (9631)	I
Morpheridine (9632)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Norpipanone (9636)	I
Phenadoxone (9637)	I
Phenampromide (9638)	I
Phenoperidine (9641)	I
Piritramide (9642)	I
Proheptazine (9643)	I
Properidine (9644)	I
Racemoramide (9645)	I
Trimeperidine (9646)	I
Phenomorphan (9647)	I
Propiram (9649)	I
Tilidine (9750)	I
Para-Flouorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Acetyl-alpha-methylfentanyl (9815)	I
Beta-hydroxy-3-methylfentanyl (9831)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
4-Anilino-N-phenethyl-4-piperidine (8333)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Alphaprodine (9010)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Etorphine HCl (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II

Drug	Schedule
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine intermediate-B (9233)	II
Metazocine (9240)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Metopon (9260)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Dihydroetorphine (9334)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Phenazocine (9715)	II
Piminodine (9730)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Tapentadol (9780)	II
Bezitramide (9800)	II
Fentanyl (9801)	II

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedules I and II, which fall under the authority of section 1002(a)(2)(B) of the Act 21 U.S.C. 952 (a)(2)(B) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43, and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 18, 2013.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic class of any controlled substance in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: June 7, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–14446 Filed 6–17–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application GE Healthcare

Pursuant to Title 21, Code of Federal Regulations 1301.34(a), this is notice that on April 29, 2013, GE Healthcare, 3350 North Ridge Avenue, Arlington Heights, Illinois 60004–1412, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Cocaine (9041), a basic class of controlled substance listed in schedule II.

The company plans to import small quantities of ioflupane, in the form of three separate analogues of Cocaine, to validate production and quality control systems, for a reference standard, and for producing material for a future investigational new drug (IND) submission.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance listed in schedules I and II, which falls under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR § 1301.43, and in such form as prescribed by 21 CFR § 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 18, 2013.

This procedure is to be conducted simultaneously with, and independent