

V. CONCLUSION

After reviewing the public comment, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. Accordingly, after the comment and this Response are published in the **Federal Register**, the United States will move this Court to enter the proposed Final Judgment.

DATE: July ____, 2013

FOR PLAINTIFF

UNITED STATES OF AMERICA:

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CERTIFICATE OF SERVICE

I, Richard D. Mosier, hereby certify that on ____, 2013, I electronically filed the Response of Plaintiff United States to Public Comment on the Proposed Final Judgment and the attached Public Comment with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to the following counsel:

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05/21/2013

Comment regarding:
CASE NO. 13-CV-4030-LLP
FILED: 04/08/2013

UNITED STATES OF AMERICA,
Plaintiff,

v.

CHIROPRACTIC ASSOCIATES, LTD. OF
SOUTH DAKOTA,
Defendant:

To the court,

I am a South Dakota resident unaffiliated with CHIROPRACTIC ASSOCIATES, LTD. OF SOUTH DAKOTA (CASD), its owners or members. I am a consumer of chiropractic care and have been for several years. I shall offer these comments anonymously as Mr. Munsterman has considerable influence in his role as a state legislator and it is known to me that he would/could retaliate for unfavorable comments.

There are three points I wish to make.

First and foremost CASD for over 15 years CASD has conspired, defrauded, and committed felonious acts against the people of South Dakota and other states as well to increase the price of services rendered by their members. The primary beneficiary of the profits from this conspiracy was Scott Munsterman as primary owner of CASD.

Although the injunction against CASD prohibits further violations as outlined in the case documents, it does nothing to punish the principals for their conduct and fraud. It affixes no fine or penalty other than I assume court costs. Munsterman and his associates have profited for several years from their illegal activities and it appears to all that now the justice system is saying, "just don't do it anymore", keep your ill-gotten profits and we will let you get off with this "slap on the hand". No fine, no penalties, just stop doing what you are doing.

And of course, CASD would accept that, who wouldn't. If someone robbed a bank, got away with thousands of dollars of other people's hard earned money, later is caught and is told, "Just don't do it anymore".

Your honor, this is a travesty of justice in the most egregious manner.

Second, Scott Munsterman serves as a member of the South Dakota House of Representatives, representing District 7. He is the chairperson for the Health and Human Services Committee. It is egregious to think that this man in his position on the Health and Human Services Committee will be making critical decisions and influencing votes for the Healthcare issues facing the South Dakota Legislature and ultimately becoming laws for the people of South Dakota. Sadly few South Dakotans will take notice of the actions against CASD and no one will be held accountable and no penalties assessed.

With all the recent revelations of corruption, scandals and cover-ups in our government, now more than ever due the citizens need to see that our justice system deals out justice fairly and impartially and that those who have manipulated, circumvented and abused the law are punished, not just stopped.

Your honor, please do the right thing in this case and issue substantial monetary penalties for the illegal action by CASD, its owners and associates.

I maintain my anonymity because of potential retaliation from the owner(s) of CASD.

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DEPARTMENT OF LABOR**Occupational Safety and Health Administration**

[Docket No. OSHA-2007-0039]

Intertek Testing Services NA, Inc.: Grant of Expansion of Recognition and Request To Remove a Condition of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the scope of recognition and the removal of a special condition of recognition that involves testing and evaluating hazardous-location equipment for Intertek Testing Services NA, Inc., as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of the scope of recognition and the removal of the special condition becomes effective on August 12, 2013.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3655, Washington, DC 20210, or phone (202) 693-2110, or email: johnson.david.w@dol.gov.

SUPPLEMENTAL INFORMATION:**I. Notice of Final Decision**

The Occupational Safety and Health Administration (OSHA or Agency) hereby gives notice of the expansion of the scope of recognition of Intertek Testing Services NA, Inc. (ITSNA), as a Nationally Recognized Testing Laboratory (NRTL). ITSNA's expansion covers the addition of two new sites. OSHA also gives notice of the removal of a special condition of recognition placed upon ITSNA regarding testing and evaluating hazardous-location equipment. OSHA's current scope of recognition for ITSNA is available at the following informational Web site: <http://www.osha.gov/dts/otpca/nrtl/its.html>.

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products

covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web site for each NRTL that details its scope of recognition. These pages are available from our Web site at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

ITSNA submitted an application, dated June 8, 2007 (Exhibit 1: ITSNA Application), to expand its recognition to include three additional facilities (sites) located at: 545 East Algonquin Road, Suite F, Arlington Heights, IL 60005 (ITSNA Chicago); 420 North Dorothy Drive, Richardson, TX 75081 (ITSNA Dallas); and 2307 East Aurora Road, Suite B7, Twinsburg, OH 44087 (ITSNA Cleveland). ITSNA later amended its application to remove the ITSNA Cleveland site from the application, and to change the address for the ITSNA Dallas site to 1809 10th Street, Suite A, Plano, TX 75074 (ITSNA Dallas) (Exhibit 2: ITSNA Amended Applications dated 7/22/2009 and 10/20/2009).

On November 6, 2009, ITSNA submitted a letter seeking to relax or remove a special condition of its recognition which states: "All safety test reports for hazardous location products must undergo a documented review and approval at the Cortland testing facility by a test engineer qualified in hazardous location safety testing, prior to ITSNA's initial or continued authorization of the certifications covered by these reports. The above limitations apply solely to ITSNA's operations as an NRTL. . . ." (Exhibit 3: ITSNA Hazardous Location Letter).

In connection with these requests, NRTL Program staff performed on-site reviews of ITSNA's testing facilities in January 2010 (ITSNA Chicago) and March 2012 (ITSNA Dallas), and recommended expansion of ITSNA's recognition to include these two sites

(Exhibit 4: ITSNA On-site Review Reports). Additionally, audits of these and other ITSNA NRTL sites determined that ITSNA has the appropriate training programs and controls in place to remove the special condition for testing hazardous-location equipment (Exhibit 5: Memorandum Regarding Removal of Hazardous Location Restriction). As a result, the Agency preliminarily determined that it should (1) expand ITSNA's scope of recognition to include the ITSNA Chicago and ITSNA Dallas sites, and (2) remove the special condition stated above from ITSNA's scope of recognition.

OSHA published the preliminary notice announcing ITSNA's expansion application in the **Federal Register** on May 30, 2013. The Agency requested comments by June 29, 2013, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant ITSNA's expansion application.

To obtain or review copies of all public documents pertaining to the ITSNA application, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-2625, Washington, DC 20210. Docket No. OSHA-2007-0039 contains all materials in the record concerning ITSNA's recognition.

II. Final Decision and Order

The NRTL Program staff examined ITSNA's expansion application, the auditor's recommendations, and other pertinent information. Based on its review of this evidence, OSHA finds that ITSNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. OSHA also gives notice that it remove the special condition of recognition involving evaluating hazardous-location equipment from ITSNA's NRTL scope of recognition.

OSHA limits the expansion of ITSNA's recognition to include the sites at ITSNA Dallas (Plano, Texas) and ITSNA Chicago (Arlington Heights, Illinois) as listed above. OSHA's recognition of these sites limits ITSNA to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for which OSHA has recognizes ITSNA. This limitation is consistent with the recognition that OSHA grants to other NRTLs that operate multiple sites.

These sites also may use all eight of the "supplemental" programs in ITSNA's recognition. An NRTL may use

these programs, which OSHA described in a March 9, 1995 **Federal Register** notice (60 FR 12980, 03/09/1995), to control and audit, but not generate, the data relied on for product certification. The Agency does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, OSHA does treat these programs as one of the three elements that define an NRTL's scope of recognition. OSHA previously recognized ITSNA for these programs. As a result, OSHA does not list them again in this final notice, but merely provides this information as a matter of public interest.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, ITSNA also must abide by the following conditions of the recognition:

1. ITSNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. ITSNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. ITSNA must continue to meet the requirements for recognition, including all previously published conditions on ITSNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of ITSNA, subject to these limitations and conditions specified above.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Section 8(g)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 6, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

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