Discussion

No decision of the Agency has squarely confronted the question of whether the granting of a request to withdraw an application, which is submitted by a person after he has been issued a show cause order, is in the public interest. However, in *Liddy's Pharmacy, L.L.C.,* 76 FR 48887 (2011), the Administrator, in rejecting a motion by the Government to dismiss a case as moot, provided some guidance (albeit in dictum) as to when the granting of a withdrawal request, which is filed after the issuance of a show cause order, is in the public interest.

In *Liddy's Pharmacy,* the Government issued a show cause order, which sought the revocation of the respondent's registration on the ground that it had committed acts which render its registration inconsistent with the public interest, and proceeded to a hearing before an ALJ, at which it prevailed. 76 FR at 48888. While the matter was pending the Administrator's review, the respondent agreed to voluntarily surrender its registration and the Government moved to terminate the proceeding on the ground that it had become moot. *Id.* The respondent, however, had previously filed a timely renewal application. *Id.* at 48888–89.

After noting that the voluntary surrender form ''contain[ed] no language manifesting that [r]espondent ha[d] withdrawn its pending application,'' the Administrator explained that even if the respondent had requested to withdraw its application, she would have ''concluded that allowing [r]espondent to withdraw its application would be contrary to the public interest.'' *Id.* at 48888. In reaching this conclusion, the Administrator noted several factors, including the ''extensive resources that have been expended in both the litigation and review of this case, the egregious misconduct established by th[e] record,'' and that the respondent could immediately reapply for a new registration. *Id.* While the hearing in *Liddy* was not particularly lengthy (in part, because only the Government presented evidence), the record was nonetheless extensive.[3]

Of note, in *Liddy,* the Government was the party which moved to terminate the proceeding. Thus, the Administrator did not discuss the potential prejudice to the Government had she allowed the respondent to withdraw its application. However, it is manifest that where the Government has issued a show cause order to an applicant, the potential prejudice to the Government is an important factor which should be considered in determining whether to grant a motion to withdraw an application.

It is indisputable that Applicant's conduct in engaging in a criminal conspiracy to distribute, and possess with intent distribute, 500 grams or more of cocaine, is egregious misconduct. Moreover, no regulation bars Applicant from immediately reapplying for a registration. I nonetheless hold, however, that the other factors support the conclusion that granting his withdrawal request in in the public interest.

Here, there has been no proceeding on the merits of the allegations and thus extensive resources have not been expended in the litigation and review of this case. Moreover, reviewing the allegations and the record submitted by the Government, I conclude that granting the withdrawal request will not prejudice the Government in the event Applicant reapplies in the future.

In this matter, the Government has proposed the denial of the application based on three sets of circumstances: (1) The alleged findings of an investigation conducted in 2000; (2) his 2010 conviction for violating 21 U.S.C. 846; and (3) the state board orders that were issued following his 2010 conviction. *Id.* at 6–8. However, in the event Applicant was to reapply, his conviction is not subject to relitigation in this proceeding and the Government can again rely on it as a basis to deny the application. *See* 21 U.S.C. 823(f)(3); *Robert L. Dougherty,* 76 FR 16823, 16830 (2011) (discussing *Robert A. Leslie,* 60 FR 14004, 14005 (1995); *Robert A. Leslie,* 64 FR 25908 (1999); and *Robert A. Leslie,* 68 FR 15227 (2003)). So too, the Government can rely on the state board orders, to the extent they add anything that is probative of whether granting a new application would be consistent with the public interest.

Indeed, the only potential prejudice that could accrue to the Government would be that with the passage of additional time, it would be unable to produce reliable evidence probative of the violations allegedly found in the investigation, which was conducted fourteen years ago, when Applicant was practicing in Pittsburgh, Pennsylvania. The Government cannot, however, claim prejudice, because the evidence it submitted with its Request for Final Agency Action to support the allegations does not rise to the level of substantial evidence. Here, the evidence on these allegations was limited to an affidavit of a Diversion Investigator, with the Phoenix Office, who was assigned to the current matter in December 2012. While the DI's affidavit states that ''[t]he matters contained in this declaration are based upon my personal knowledge, training, and experience,'' and then makes several factual assertions regarding the 2000 investigation, the affidavit does not establish that the DI was personally involved in that investigation. *See* DI's Declaration, at 1–3. Moreover, the affidavit does not cite any documentary evidence that supports these factual assertions and the investigative record submitted by the Government contains no such evidence. Thus, were I to proceed to the merits of the Government's Request for Final Agency Action, I would be required to conclude that these allegations are not supported by substantial evidence.

Accordingly, I conclude that granting Applicant's withdrawal request will not prejudice the Government. Moreover, while some agency resources have been expended in the review of this matter, this was occasioned by the need to set forth the factors to be considered in determining whether the granting of a withdrawal request, which is made after the issuance of a show cause order, ''is in the public interest.'' 21 CFR 1301.16(a). Because I conclude that granting Applicant's request to withdraw his application ''is in the public interest,'' I grant his request. And because there is no longer an application to act upon, I hold that this case is now moot and dismiss the Order to Show Cause.

It is so ordered.

Dated: April 4, 2014.

Thomas M. Harrigan,

Deputy Administrator.

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BILLING CODE 4410–09–P

[3] A review of the Agency's decision in *Liddy* shows that the respondent had dispensed over 42,000 controlled substance prescriptions for millions of dosage units, which were written by physicians to patients who resided in States where the former were not licensed to practice medicine and with whom they had not established a valid doctor-patient relationship, and thus, were issued outside of the usual course of professional practice, in violation of 21 CFR 1306.04(a). *Id.* at 48893–96.

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 30 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

(1) Changes to the Security and Management Control Outsourcing Standards for Channelers and Non-Channelers.

(2) Update on the Compact Council's Civil Fingerprint Image Quality Pilot.

(3) SEARCH—2012 Final Biennial Survey Report.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the Federal Bureau of Investigation (FBI) Compact Officer, Mr. Gary S. Barron at (304) 625–2803, at least 24 hours prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic.

DATES AND TIMES: The Council will meet in open session from 9 a.m. until 5 p.m., on May 14–15, 2014.

ADDRESSES: The meeting will take place at the Renaissance Portsmouth Hotel and Waterfront Conference Center, 425 Water Street, Portsmouth, Virginia, telephone (757) 673–3000.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mr. Gary S. Barron, FBI Compact Officer, Module D3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone (304) 625–2803, facsimile (304) 625–2868.

Dated: March 28, 2014.

Gary S. Barron,

FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2014–08322 Filed 4–11–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Radiation Sampling and Exposure Records

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) revision titled, ''Radiation Sampling and Exposure Records,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 14, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201402-1219-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to PRA approval for a modification to the Radiation Sampling and Exposure Records information collection. Specifically, Form MSHA–9000–4, ''Record of Individual Exposure to Radon Daughters,'' is being clarified to reflect that a mine operator's response is mandatory. Data elements would remain unchanged.

Regulations 30 CFR 57.5040 requires a mine operator to calculate and record individual exposures to radon daughters on Form MSHA–4000–9 or equivalent forms acceptable to the MSHA. The calculations are based on the results of weekly sampling required by 30 CFR 57.5037. Records must be maintained by the operator and submitted annually to the MSHA. The sampling and recordkeeping requirement alerts the mine operator and the MSHA to possible failure in the radon daughter control system and permits timely appropriate corrective action. Data submitted to the MSHA is intended to establish a means by which the MSHA can assure compliance with underground radiation standards and to assure that miners can, on written request, have records of cumulative exposures made available to them or their estate, and to medical and legal representatives who have obtained written authorization. Mine Safety and Health Act section 103(h), 30 U.S.C. 813(h), authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0003. The current approval is scheduled to expire on June 30, 2014; however, the DOL notes that existing information collection