DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on April 24, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. 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, Shire Pharmaceuticals LLC, Lexington, MA; Lhasa Limited, Leeds, UNITED KINGDOM; Intomics A/S, Lyngby, DENMARK; and PRYV SA, Lausanne, SWITZERLAND, have been added as parties to this venture.

Also, Chris Barber (individual member), Leeds, UNITED KINGDOM, has withdrawn as a party to this venture.

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 Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. 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 July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on February 3, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 2017 (82 FR 12847).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–10358 Filed 5–19–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Electronics Manufacturing Initiative, Inc.

Notice is hereby given that, on April 26, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Electronics Manufacturing Initiative, Inc. (''iNEMI'') 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, 5N Plus Micro Powders Inc., Montréal, Quebec, CANADA; U.S. Department of Defense, Fort Meade, MD; Elmatica AS, Oslo, NORWAY; Integrated Micro-Electronics, Inc., Binan, PHILIPPINES; General Electric, San Jose, CA; Oak Ridge National Laboratory, Oak Ridge, TN; Tin Products Manufacturing Co., LTD, Kunming, PEOPLE'S REPUBLIC OF CHINA; Vitrox Technologies SDN BHD, Bayan Lepas, MALAYSIA; METech Recycling, Creedmoor, NC; Peagatroin, Taipei, TAIWAN; Shenmao Technology, Inc., Taoyuan, TAIWAN; SAKI Corporation, Tokyo, JAPAN; SENKO Advanced Components, Basingstoke, UNITED KINGDOM; and Abbott Corporation, Abbott Park, IL, have been added as parties to this venture.

Also, Commissariat à l'énergie atomique et aux énergies alternatives, Grenoble, FRANCE; EPEAT, Inc., Portland, OR; Underwriters Laboratories, Northbrook, IL; IMEC vzw, Leuven, BELGIUM; Micro Systems Technology Mgmt. AG, Baar, SWITZERLAND; TE Connectivity, Schaffhausen, SWITZERLAND; and St. Jude Medical, Saint Paul, MN, have withdrawn as parties to this venture.

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 iNEMI intends to file additional written notifications disclosing all changes in membership.

On June 6, 1996, iNEMI 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 June 28, 1996 (61 FR 33774).

The last notification was filed with the Department on May 4, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2016 (81 FR 37213).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–10342 Filed 5–19–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Steven Bernhard, D.O.; Decision and Order

On October 3, 2016, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Steven Bernhard, D.O. (hereinafter, Registrant), of Bayside, New York. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration on the grounds that: (1) He materially falsified his renewal application, and (2) he lacks authority to handle controlled substances in New York, the State in which he is registered. GX D, at 1 (citing 21 U.S.C. 823(f), 824(a)(1), and 824(a)(3)).

As to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is the holder of DEA Certificate of Registration AB7719860, pursuant to which he is registered as a practitioner in schedules II through V at the registered address of 39–21 Bell Blvd., Bayside, New York. *Id.* The Order alleged that this registration does not expire until July 31, 2018. *Id.*

As to the substantive grounds for the proceeding, the Show Cause Order alleged that effective on ''February 4, 2013, the New York Department of Health State Board for Professional Misconduct revoked [his] license to practice medicine due to negligence, incompetence, gross negligence, gross incompetence, the failure to maintain records, fraudulent practice, and false reports,'' and that ''[t]his order remains in effect.'' *Id.* The Show Cause Order thus alleged that Registrant is ''without authority to handle controlled substances in the State of New York, the [S]tate in which [he is] registered,'' and that his registration is therefore subject to revocation. *Id.* at 1–2 (citing 21 U.S.C. 823(f) & 824(a)(3)).

The Show Cause Order also alleged that on June 11, 2015, Registrant submitted a renewal application for his registration on which he made two materially false statements. *Id.* at 2.

First, the Order alleged that Registrant falsely represented that he ''possessed a valid New York Medical License No. 131832 which expired on March 31, 2017,'' when, in fact, his ''medical license had been revoked in 2013.'' *Id.* Second, the Order alleged that Registrant falsely answered ''No'' to the application's question which asked if he ''had ever 'had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?' '' *Id.* The Order alleged that each of these statements was capable of influencing the Agency's decision to grant the application and was thus material. *Id.* (citing 21 U.S.C. 823(f) & 824(a)(1); other citations omitted).

The Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement of his position on the matters of fact and law asserted while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2–3 (citing 21 CFR 1301.43). The Order also notified Registrant of his right to submit a Corrective Action Plan pursuant to 21 U.S.C. 824(c)(2)(C). *Id.* at 3.

On November 4, 2016, a DEA Diversion Investigator (DI) went to Registrant's registered address as well as his home address to attempt personal service of the Show Cause Order, but Registrant ''was not present'' at either location. GX 3, at 1–2. Subsequently, the DI mailed the Show Cause Order to Registrant by Certified Mail, Return Receipt Requested, addressed to him at both his registered location and home address. *Id.* at 2. As evidenced by the copies of the signed return-receipt cards, these mailings were delivered on November 16 and 15, 2016, respectively. *Id.* Finally, on November 29, 2016, the DI also emailed a copy of the Show Cause Order to Registrant using the email address he had previously provided the Agency. *Id.* The DI further represented that the she did not receive a message that the ''email was not successfully sent'' or ''was undeliverable.'' *Id.*

The Government's Counsel further represents that Registrant ''has not filed a request for a hearing or a written statement.'' Request for Final Agency Action, at 2. Because I find that more than 30 days have now passed since the Show Cause Order was served on Registrant, and that Registrant has neither requested a hearing nor submitted a written statement while waiving his right to a hearing, I find that Registrant has waived his right to a hearing or to submit a written statement. Based on the evidence submitted by the Government, I make the following factual findings.

Findings of Fact

Registrant is the holder of DEA Certificate of Registration No. AB7719860, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V, at the registered address of 39–21 Bell Blvd., Bayside, NY. GX 1. This registration does not expire until July 31, 2018. *Id.*

Registrant was previously licensed to practice medicine by the New York State Department of Health. GX 3, Ex. E, at 7. (Determination and Order, at 3, *In the Matter of Steven Bernhard, D.O.,* (N.Y. Dept. of Health State Bd. for Prof. Med. Conduct, Jan. 24, 2013)). However, on January 24, 2013, a Hearing Committee of the Board issued a Determination and Order revoking Registrant's license to practice medicine; the Board's Order became effective on February 4, 2013 and was in effect as of June 19, 2015, as well as of the date this matter was forwarded to my Office. *Id.* at 1; *see also* GX 3, Ex. F, at 1. Moreover, I take official notice of the Board's Web site, which continues to list Registrant's medical license as having been revoked. *See* 5 U.S.C. 556(e); 21 CFR 1316.59(e).

On June 11, 2015, Registrant submitted an application to renew his DEA registration. GX 3, Ex. A, at 1. Section 4 of the Application asked: ''Are you currently authorized to prescribe, distribute, dispense, conduct research, or otherwise handle controlled substances in the schedules for which you are applying under the laws of the state or jurisdiction in which you are operating or propose to operate?'' *Id.* Registrant represented that he held ''State License No. 131839,'' that the license was issued by ''NY,'' and its expiration date was ''03–31–2017.'' *Id.* On the Application, Registrant was also required to answer the question: ''Has the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?'' *Id.* Registrant answered ''N'' for no. *Id.*

Discussion

Pursuant to section 304(a)(1) of the Controlled Substances Act (CSA), the Attorney General is authorized to suspend or revoke a registration ''upon a finding that the registrant . . . has materially falsified any application filed pursuant to or required by this subchapter.'' 21 U.S.C. 824(a)(1). And pursuant to section 304(a)(3), the Attorney General is authorized to suspend or revoke a registration ''upon a finding that the registrant . . . has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the . . . distribution or dispensing of controlled substances.'' *Id.* § 824(a)(3). These provisions provide separate and independent grounds to revoke Registrant's registration.

The Loss of State Authority Allegation

Under the CSA, a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which he practices'' in order to obtain and maintain a DEA registration. This rule derives from two provisions of the CSA. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice''). *See also id.* § 823(f) (''The Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'').

Thus, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., Frederick Marsh Blanton,* 43 FR 27616, 27617 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.''); *see also James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); 21 U.S.C. 824(a)(3).

Here, the Government has provided a copy of the New York Board's Determination and Order which revoked Registrant's New York medical license effective on February 4, 2013. The Government further submitted evidence showing that, as of the date it submitted its Request for Final Agency Action, Registrant's state medical license remained revoked, and the Board's Web site continues to state that his license has been revoked.

I therefore conclude that Registrant's medical license has been revoked and that he is no longer authorized to dispense controlled substances in New York, the State in which he holds his

registration. Because Registrant does not meet the CSA's essential requirement for maintaining a practitioner's registration, I will order that his registration be revoked. *See* 21 U.S.C. 824(a)(3), 802(21); *see also id.* § 823(f).

The Material Falsification Allegation

As found above, effective on February 4, 2013, the State of New York revoked Registrant's Medical License and this Order was still in effect as of June 11, 2015, when Registrant submitted his application. Thus, Respondent materially falsified his application in two ways. First, he falsely represented that he was ''currently authorized to prescribe [or] dispense'' controlled substances in New York State when he listed his purported license number, indicated that it was issued by New York, and listed the license's expiration date as March 31, 2017. Second, he falsely answered ''N'' for no to the question which asked if his state medical license had ever been revoked.

Each of these false statements was clearly material because it was capable of affecting or influencing the Agency's decision as to whether to grant his application. *Kungys* v. *United States,* 485 U.S. 759, 770 (1988) (other citation omitted); *United States* v. *Wells,* 519 U.S. 482, 489 (1997) (quoting *Kungys,* 485 U.S. at 770). As explained above, the CSA defines the ''[t]he term 'practitioner' [to] mean[ ] a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice,'' 21 U.S.C. 802(21), and the registration provision applicable to practitioners directs that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' *Id.* § 823(f). As the Agency has long held, ''[s]tate authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'' *Blanton,* 43 FR at 27617.

Because the possession of state authority is a prerequisite to obtaining and maintaining a practitioner's registration, Respondent's false representations that he currently possessed a state license and that his state license had never been revoked were capable of influencing the Agency's decision to grant his June 11, 2015 renewal application. I therefore also conclude that Respondent materially falsified his June 11, 2015 application. For this reason as well, I will order that his registration be revoked. 21 U.S.C. 824(a)(1).

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AB7719860 issued to Steven Bernhard, D.O., be, and it hereby is, revoked. I further order that any application of Steven Bernhard, D.O., to renew or modify this registration, be denied. This Order is effective immediately.[1]

Dated: May 15, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–10363 Filed 5–19–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Shakeel A. Kahn, M.D.; Decision and Order

On December 20, 2016, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Shakeel A. Kahn, M.D. (hereinafter, Registrant), of Casper, Wyoming. GX 1. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration, on the ground that he ''do[es] not have authority to handle controlled substances in the State of Wyoming, the [S]tate in which [he is] registered with the DEA.'' *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

As for the jurisdictional basis of the proceeding, the Show Cause Order alleged that Registrant is registered ''as a practitioner in [s]chedules II–V pursuant to'' Certificate of Registration No. FK5578464, at the address of ''301 South Fenway St., Suite 202, Casper, Wyoming.'' *Id.* The Order alleged that this registration expires ''on December 31, 2018.'' *Id.*

As for the substantive ground for the proceeding, the Show Cause Order alleged that on November 29, 2016, Registrant's ''authority to prescribe and administer controlled substances in the State of Wyoming was suspended,'' and that he is ''without authority to handle controlled substances.'' *Id.* The Show Cause Order thus asserted that his registration is subject to revocation. *Id.* (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)) (other 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 on the matters of fact and law at issue while waiving his right to a hearing, the procedures for electing either option, and the consequence of failing to elect either option. *Id.* at 2. Also, the Show Cause Order notified Registrant of his right to submit a corrective action plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

According to the declaration of a DEA Special Agent, on December 20, 2016, he personally served the Show Cause Order on Registrant at his residence. GX 5. The Government represents that the Agency ''has not received a request for hearing or any other reply from'' Registrant. Gov. Request for Final Agency Action, at 2. Based on the representation of the Government, I find that more than 30 days have now passed since the Show Cause Order was served on Registrant, and that Registrant has neither requested a hearing nor submitted a written statement while waiving his right to a hearing. I therefore find that Registrant has waived his right to a hearing or to submit a written statement. Based on the evidence submitted by the Government, I make the following factual findings.

Findings

Registrant is the holder of DEA Certificate of Registration No. FK5578464, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, at the address of 301 S. Fenway St., Suite 202, Casper, Wyoming. GX 2. His registration does not expire until December 31, 2018. *Id.*

Registrant is also the holder of Wyoming Physician License No. 7633A. GX 3, at 1. However, on November 29, 2016, the Wyoming Board of Medicine ordered the summary suspension of Registrant's Physician License effective the same day, thereby suspending ''his authority and ability to practice medicine in the state of Wyoming'' pending ''the completion of a contested case hearing.'' *Id.* at 18. According to the online records of the Wyoming Board of Medicine of which I take official notice, Registrant's medical license remains suspended as of the date of this Decision and Order. *See* 5 U.S.C. 556(e), 21 CFR 1316.59(e).

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled

[1] Based on my finding that Respondent obtained his registration by materially falsifying his application, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.