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John Mahoney,

Senior Policy Advisor, Federal Geographic Data Committee.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 13-39]

Masters Pharmaceutical, Inc.; Order

On August 14, 2017, the United States Court of Appeals for the District of Columbia Circuit granted the Agency's motion to dissolve the stay of my Order of September 8, 2015, revoking DEA Certificate of Registration No. RD0277409 issued to Masters Pharmaceutical, Inc. See *Masters Pharmaceutical, Inc., v. Drug Enforcement Administration*, No. 15-1335 (D.C. Cir. Aug. 14, 2017) (Order). Accordingly, I order that DEA Certificate of Registration No. RD0277409 issued to Masters Pharmaceutical, Inc., be, and it hereby is, revoked. I further order that any application of Masters Pharmaceutical, Inc., to renew or modify this registration, be, and it hereby is, denied. This Order is effective at 12:01 a.m. on August 16, 2017.

Dated: August 15, 2017.

Chuck Rosenberg,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 17-17]

Arnold E. Feldman, M.D.; Decision and Order

On January 24, 2017, the Assistant Administrator, Diversion Control Division, issued an Order to Show Cause to Arnold E. Feldman, M.D. (Respondent), of Baton Rouge, Louisiana. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of

Registration No. BF4179203, and the denial of his application for a registration, on the ground that he “do[es] not have authority to handle controlled substances in the State of Louisiana, the [S]tate in which [he is] registered . . . and [is] applying” for registration. Show Cause Order, at 1.

As to the jurisdictional basis for the proceeding, the Show Cause Order alleged that Respondent is “registered . . . as a data-waived/100 practitioner in [s]chedules II–V pursuant to [Registration No.] BF4179203 with a registered address at 505 East Airport [Blvd.], Baton Rouge, Louisiana,” and that this registration does not expire until “September 30, 2018.” *Id.* The Order also alleged that “[o]n July 31, 2013, [Respondent] applied for a separate . . . [r]egistration as a practitioner in [s]chedules II–V with a registered address of 505 East Airport [Blvd.], Baton Rouge, Louisiana.” *Id.*

As to the substantive ground for the proceeding, the Show Cause Order alleged that Respondent's “[a]uthority to prescribe and administer controlled substances in the State of Louisiana was suspended effective October 19, 2016.” *Id.* at 2. The Order then asserted that as a consequence of Respondent's “lack of authority to handle controlled substances in the State of Louisiana,” Respondent's registration is subject to revocation and his application must be denied. *Id.*

The Show Cause Order notified Respondent of his right to request a hearing on the allegation or to submit a written statement while waiving his right to a hearing and the procedure for electing either option. *Id.* (citing 21 CFR 1301.43). In addition, the Order notified Respondent of his right to submit a corrective action plan pursuant to 21 U.S.C. 824(c)(2)(C). *Id.* at 2–3.

On February 23, 2017, Respondent requested a hearing on the allegation. Letter from Respondent to Hearing Clerk, Office of Administrative Law Judges (Feb. 23, 2017). The same day, the matter was assigned to Administrative Law Judge Charles Wm. Dorman (hereinafter, ALJ), who issued an order (also on Feb. 23) directing the Government to file evidence supporting the allegation by March 10, 2017 at 2 p.m., as well any motion for summary disposition. Briefing Schedule For Lack Of State Authority Allegations, at 1. The ALJ's order also provided that if the Government moved for summary disposition, Respondent's opposition was due by March 24, 2017 at 2 p.m. *Id.*

The next day, Respondent emailed the ALJ's law clerk seeking a continuance in order to engage counsel. Email from Respondent to ALJ's law clerk (Feb. 24,

2017). Respondent explained that he was seeking the continuance because “I have court cases pending in multiple jurisdictions including a Mar 16 hearing, a Mar 20 hearing in Mississippi and appeals in Louisiana and Mississippi and California.” *Id.* Respondent subsequently sought “a continuance of at least 120 days’ due to constant court appearances in Louisiana, Mississippi, and California.” Order Denying The Respondent's Request For Continuance, at 1 (Feb. 27, 2017). Noting that his Briefing Schedule order “provided the Respondent [with] a date to respond, *if the government files such a motion*,” the ALJ reasoned that “[b]ecause the government ha[d] not filed a motion for summary disposition . . . Respondent's request . . . is premature.” *Id.*

On March 2, 2017, the Government filed its Motion for Summary Disposition. As support for its motion, the Government provided: (1) A copy of Respondent's registration; (2) his July 30, 2013 application for registration as a hospital/clinic; (3) the Decision and Order of the Louisiana State Board of Medical Examiners (Aug. 15, 2016) which ordered the suspension of his medical license for a period of two years to begin 30 days from the date of the Order, and a subsequent Order of the Board (Sept. 13, 2016), which extended the commencement of the suspension until October 14, 2016; (4) a copy of a judgment issued by the Civil District Court for the Parish of Orleans which stayed the Board's Order from October 14, 2016 through October 19, 2016 and further ordered the Board to “show cause” as to “why the stay should not continue”; and (5) a Declaration of a Diversion Investigator as to various matters, including that the Board's Order had gone into effect on October 19, 2016. Mot. for Summ. Disp., at Appendix A–E.

On March 10, 2017, counsel for Respondent entered a notice of appearance. On March 23, 2017, Respondent filed his Reply to the Government's Motion.

Therein, “Respondent acknowledge[d] that his license to practice medicine in . . . Louisiana has been suspended in accordance with the . . . Board of Medical Examiners' Order.” Resp. Reply, at 1. Respondent contended, however, “that there are material questions of fact and law that require resolution in a plenary, evidentiary proceeding.”

According to Respondent, these issues were that he possesses “an active and unrestricted” license to practice medicine in Alabama and “a full and unrestricted Alabama Controlled