

handle controlled substances who is without authority to handle controlled substances in the State in which he practices" medicine. *Id.* at 2 (citing 21 U.S.C. 823(f)).

In support of its motion, the Government attached a copy of the Interim Order. The Interim Order specifically stated that Respondent "shall be precluded from all patient contact and any practice of medicine, clinical or otherwise. Licensee shall be precluded from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition." *In re Chait*, Stipulation and Application for an Interim Non-Disciplinary Order of Conditions Pursuant to N.Y. Pub. Health Law § 230, at 3. The Interim Order also directed Respondent to "surrender [his] Controlled Substance Registration Certificate to the United States Department of Justice, Drug Enforcement Administration, within 15 days of the effective date of this Order." *Id.* at 4.<sup>1</sup>

Although the ALJ ordered Respondent to respond by November 20, 2007, he did not. The ALJ then granted the Government's motion.

The ALJ observed that while the Interim Order did not "make any findings of misconduct as to the matters under investigation, it does prohibit the Respondent from having any patient contact and from practicing medicine." ALJ Dec. at 3. The ALJ also explained that "the Board's Order clearly states that the Respondent is barred from diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition, and is required to surrender his DEA Registration \* \* \* within 15 days of the effective date of the Board's Order." *Id.* The ALJ thus "conclude[d] that \* \* \* Respondent currently lacks authority to practice medicine in the State of New York or to prescribe controlled substances in that State." *Id.* Because DEA lacks authority under the Controlled Substances Act to register (and to continue an existing registration of) a practitioner who lacks authority under state law to handle controlled substances, the ALJ recommended that Respondent's registration be revoked. *Id.* at 4–5 (citing cases). The ALJ then

forwarded the record to me for final agency action.

Having considered the record as a whole, I adopt the ALJ's decision in its entirety. I find that Respondent holds a current registration which does not expire until August 31, 2009. I further find that effective May 17, 2007, the New York State Department of Health, State Board for Professional Medical Conduct, issued an Interim Order which precludes Respondent from practicing medicine and prescribing drugs, Interim Order at 3, and that this Order remains in effect. Therefore, even though Respondent's state medical license has not been suspended or revoked, it is clear that he is not permitted to handle controlled substances in the State of New York, the State in which he holds his DEA registration.<sup>2</sup>

Under the Controlled Substances Act (CSA), a practitioner must be currently authorized to handle controlled substances in "the jurisdiction in which he practices" in order to maintain a DEA registration. *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."). As these provisions make plain, possessing authority under state law to handle controlled substances is an essential condition for holding a DEA registration.

That the State has not formally revoked or suspended Respondent's state license is not dispositive. Because Respondent is not "authorized under" state law, "or otherwise permitted[]" by \* \* \* the jurisdiction in which he practices" to handle controlled substances "in the course of professional practice," and is in fact currently precluded from engaging in the practice of medicine, he is not entitled to hold a registration under the CSA. *See Julian A. Abbey, M.D.*, 72 FR 10788, 10788–89 (2007) (revoking registration of practitioner who had entered into a voluntary agreement with the State to cease the practice of medicine). Accordingly, Respondent's registration will be revoked.

<sup>2</sup>I further note that there is no evidence that Respondent has surrendered his DEA registration.

## Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, BC2825151, issued to Michael Chait, M.D., be, and it hereby is, revoked. I further order that any pending application of Michael Chait, M.D., for renewal or modification of his registration be, and it hereby is, denied. This order is effective August 13, 2008.

Dated: July 2, 2008.

**Michele M. Leonhart,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 6–08]

### Sunshine Act Meetings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

**DATE AND TIME:** Thursday, July 31, 2008, at 10:30 a.m.

**SUBJECT MATTER:** Issuance of Proposed Decisions, Amended Proposed Decisions, and Orders in claims against Albania.

**STATUS:** Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

**Mauricio J. Tamargo,**

*Chairman.*

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<sup>1</sup>The Government also attached a copy of a webpage maintained by the N.Y. Department of Health, entitled "Professional Misconduct and Physician Discipline." This document indicates that the Interim Order precludes Respondent from the clinical practice of medicine in New York State "until the final disposition of the current investigation being conducted by the New York State Office of Professional Medical Conduct."