

public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$26.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8-19704 Filed 8-25-08; 8:45 am]

BILLING CODE 4410-CW-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act and Other Environmental Statutes

Notice is hereby given that on August 19, 2008, a proposed Consent Decree in *United States v. Burlington Resins, Inc., d/b/a Colorite Specialty Resins, Inc.*, Civil Action No. 08-01432 (RBK), was lodged with the United States District Court for the District of New Jersey.

In this action, the United States sought a civil penalty and injunctive relief for violations of the Clean Air Act, 42 U.S.C. 7401, *et seq.*, the Clean Water Act, 33 U.S.C. 1251, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. 2601, *et seq.*, and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001, *et seq.*, as well as regulations promulgated under those statutes, including the National

Emission Standard for Vinyl Chloride at 40 CFR Part 61, Subpart F, in connection with the polyvinyl chloride manufacturing facility that the settling defendant, Colorite Specialty Resins, Inc. (Colorite), operates at 116 Beverly Road, Burlington, New Jersey. The Consent Decree requires Colorite to implement injunctive relief to bring its facility into compliance, including reducing vinyl chloride emissions, implementing a comprehensive leak detection and repair program, and instituting better hazardous waste handling practices. The Decree also requires Colorite to pay a \$1.3 million civil penalty to the United States and the State of New Jersey and to perform supplemental environmental projects worth \$1.1 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Burlington Resins, Inc., d/b/a Colorite Specialty Resins, Inc.*, D.J. Ref. No. 90-5-2-1-08682.

The Consent Decree may be examined at the Office of the United States Attorney, 970 Broad Street, Suite 700, Newark, N.J. 07102, and at U.S. EPA Region 2, 290 Broadway, New York, N.Y. 10007. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov),

fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$21.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8-19779 Filed 8-25-08; 8:45 am]

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DEPARTMENT OF JUSTICE

Membership of the Senior Executive Service Standing Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of Department of Justice's standing members of the Senior Executive Service Performance Review Boards.

SUMMARY: Pursuant to the requirements of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its 2008 Senior Executive Service (SES) Standing Performance Review Boards (PRBs). The purpose of a PRB is to provide fair and impartial review of SES performance appraisals, bonus recommendations and pay adjustments. The PRBs will make recommendations regarding the final performance ratings to be assigned, SES bonuses and/or pay adjustments to be awarded.

FOR FURTHER INFORMATION CONTACT: Rod Markham, Director, Human Resources, Justice Management Division, Department of Justice, Washington, DC 20530; (202) 514-4350.

Lee J. Lofthus,

Assistant Attorney General for Administration.

Name	Position title
Office of the Attorney General—AG	
Benczkowski, Brian	Chief of Staff.
Office of the Deputy Attorney General—DAG	
Margolis, David	Associate Deputy Attorney General.
Schools, Scott N	Associate Deputy Attorney General.
Eisenberg, John A	Associate Deputy Attorney General.
Soffer, Gil M	Associate Deputy Attorney General.
Office of the Associate Attorney General—OASG	
Battaglia, John T	Deputy Associate Attorney General.
Cain, Candace Camille	Deputy Associate Attorney General.

Name	Position title
Nichols, Carl J	Principal Deputy Associate Attorney General.
Witten, Jesse	Deputy Associate Attorney General.

Antitrust Division—ATR

Connolly, Robert E	Chief, Philadelphia Field Office.
Davis, Nezida S	Chief, Atlanta Field Office.
Familant, Norman	Chief, Economic Litigation Section.
Giordano, Ralph T	Chief, New York Field Office.
Goodman, Nancy M	Chief, Telecommunications and Media Section.
Hammond, Scott D	Deputy Assistant Attorney General/Criminal Enforcement.
Hand, Edward T	Chief, Foreign Commerce Section.
Heyer, Kenneth	Director of Economics.
King, Thomas D	Executive Officer.
Kramer II, J. Robert	Director of Operations.
Kursh, Gail	Deputy Chief, Legal Policy Section.
Majure, William Robert	Chief, Competition Policy Section.
O'Sullivan, Catherine G	Chief, Appellate Section.
Petrizzi, Maribeth	Chief, Litigation II Section.
Phelan, Lisa M	Chief, National Criminal Enforcement Section.
Potter, Robert A	Chief, Legal Policy Section.
Price Jr., Marvin N	Chief, Chicago Field Office.
Read, John R	Chief, Litigation III Section.
Tierney, James J	Chief, Networks and Technology Enforcement Section.
Warren, Phillip H	Chief San Francisco Field Office.
Watson, Scott M	Chief, Cleveland Field Office.
Garza, Deborah A	Deputy Assistant Attorney General (Regulatory).
Meyerj David L	Deputy Assistant Attorney General.
O'Connell Jr., James J	Deputy Assistant Attorney General.

Bureau of Alcohol, Tobacco, Firearms, andExplosives—ATF

Anderson, Glenn N	Special Agent in Charge, Boston.
Bailey, Gregg D	Assistant Director, Science and Technology.
Barrera, Hugo J	Deputy Assistant Director, Office of Strategic Intelligence and Information.
Bell, William L	Deputy Assistant Director, Science and Technology.
Boxler, Michael B	Special Agent in Charge, Kansas/City.
Brandon, Thomas E	Special Agent in Charge, Detroit.
Carroll, Carson W	Deputy Assistant Director, Field Operations-West.
Carter, Ronnie A	Special Agent in Charge, Dallas.
Cavanaugh, James M	Special Agent in Charge, Nashville.
Chait, Mark R	Deputy Assistant Director, Field Operations-Central.
Chase, Richard E	Assistant Director, Office of Professional Responsibility and Security Operations.
Colucci, Nicholas V	Deputy Assistant Director, Office of Public and Governmental Affairs.
Crenshaw, Kelvin N	Special Agent in Charge, Seattle.
Domenech, Edgar A	Special Agent in Charge, Washington DC.
Ethridge, Michael W	Director, Laboratory Services.
Ficaretta, Teresa G	Deputy Chief Counsel.
Ford, Wilfred L	Assistant Director, Office of Public and Governmental Affairs.
Gant, Gregory K	Special Agent in Charge, Baltimore.
Goddard, Valerie J	Deputy Assistant Director, Field Operations-East.
Graham, Zebedee T	Special Agent in Charge, Charlotte.
Harper, David G	Special Agent in Charge, New Orleans.
Hoover, William J	Assistant Director, Field Operations.
Logan, Mark	Assistant Director, Training and Professional Development.
Loos, Eleanor R	Associate Chief Counsel, Administration and Ethics.
Martin, Stephen K	Special Agent in Charge, San Francisco.
Massey, Kenneth	Deputy Assistant Director, Office of Professional Responsibility and Security Operations.
McDermond, James E	Assistant Director, Office of Strategic Intelligence and Information.
McLemore, Vanessa L	Special Agent in Charge, Atlanta.
McMahon Jr., William G	Special Agent in Charge, New York.
Michalic, Vivian B	Deputy Assistant Director, Management.
Newell, William D	Special Agent in Charge, Phoenix.
O'Brien, Virginia T	Special Agent in Charge, Tampa.
Potter, Mark W	Special Agent in Charge, Philadelphia.
Rubenstein, Stephen R	Chief Counsel.
Sadowski, Christopher P	Special Agent in Charge, Columbus.
Stinnett, Melanie S	Assistant Director, Management and Chief Financial Officer.
Stoop, Theresa R	Deputy Assistant Director, Training and Professional Development.
Stucko, Audrey M	Deputy Assistant Director, Enforcement Program and Services.
Torres, John A	Special Agent in Charge, Los Angeles.
Torres, Julie	Special Agent in Charge, Miami.
Traver, Andrew L	Special Agent in Charge, Chicago.
Vido, Paul J	Special Agent in Charge, Louisville.

Name	Position title
Webb, James P	Special Agent in Charge, Houston.
Zammillo Sr., James A	Deputy Assistant Director, Industry Operations.
Zapor, Bernard J	Special Agent in Charge, St Paul.

Bureau of Prisons—BOP

Adams, Vanessa P	Senior Deputy Assistant Director Program Review Division.
Anderson, Marty C	Warden, USMCFP Springfield, MO.
Apker Jr., Lionel C	Warden, FCI, Phoenix, AZ.
Beeler Jr., Arthur F	Warden, FCC Butner, NC.
Benov, Michael L	Warden, MDC, Los Angeles, CA.
Beusse, Robin Litman	Senior Deputy Assistant Director for Administration.
Bledsoe, Bryan A	Warden, USP Lewisburg, PA.
Castillo, Juan D	Warden, FCI Memphis TN.
Chapman, W. Elanie	Warden, FMC, Carswell, TX.
Chavez, Ricardo F	Warden, USP Tuscon, AZ.
Chester, Claude	Warden, USP Leavenworth, KS.
Conley, Joyce K	Assistant Director Correctional Programs Division.
Craig, Todd R	Warden, FCI Beckley, WV.
Cross Jr., James	Warden, MCC, New York, NY.
Dalius Jr., William F.	Assistant Director for Administration.
Deboo, Kuma J	Warden, FCI Gilmer, WV.
Dewalt, Stephen M	Warden, FMC Lexington, KY.
Dodrill, D. Scott	Regional Director, Northeast Region.
Drew, Darlene	Warden, FCI Bennettsville, SC.
Drew, Darrel	Warden, FCC, Coleman, FL.
Driver, Joe D	Warden, USP Hazelton, WV.
Fox, John B	Warden, FCC, Beaumont, Texas.
Grayer, Loren A	Warden, USP, Atlanta, GA.
Grondolsky, Jeff F	Warden, FCI, Fort Dix, NJ.
Hastings, Suzanne R	Senior Deputy Assistant Director, Correctional Programs Division.
Hayes, Anthony Rico	Warden, MDC Guaynabo, Puerto Rico.
Hickey, Deborah A	Warden, FCI Jesup, GA.
Hogsten, Karen F	Warden, FCI Manchester, KY.
Holinka-Wurdeman, Carol J	Warden, FCI Oxford, WI.
Holungsworth, Lisa W	Warden, USP, Marion, IL.
Holt, Raymond E	Regional Director, Southeast Region.
Holt, Ronnier	Warden, USP, Canaan, PA.
Johns, Tracy W	Warden, FCI Medium-I, Butner, NC.
Joslin, Daniel M	Warden, FCI, Three Rivers, TX.
Kane, Thomas R	Assistant Director, Information, Policy, and Public Affairs Division.
Kastner, Paul A	Warden, FTC, Oklahoma City, OK.
Keffer, Joseph E	Warden, USP Polluck, LA.
Kendall, Paul F	Senior Counsel.
Kenney, Kathleen M	Assistant Director, Office of General Counsel.
Killian, Janice M	Warden, FCI Otisville, NY.
Laird, Paul A	Assistant Director, Industries, Education and Vocational Training Division.
Lamanna, John J	Warden, FCI, Edgefield, SC.
Lappin, Harley G	Director.
Le Blanc Jr., Whitney I	Assistant Director for Human Resources Management.
Ledezma, Hector A	Warden FCI El Reno, OK.
Lindsay, Cameron K	Warden, MDC, Brooklyn, NY.
Maldonado Jr., Gerardo	Regional Director, South Central Region.
Marberry, Helen J	Warden, FCC Terre Haute, IN.
Martinez, Ricardo	Warden, FCC Allenwood, PA.
McFadden, Robert E	Regional Director, Western Region.
Middlebrooks, Scott A	Warden, USP Coleman-I, Coleman, FL.
Nalley, Michael K	Regional Director, North Central Region.
Norwood, Joseph L	Warden, FCC, Victorville, CA.
O'Brien, Terence T	Warden, USP Lee, VA.
Outlaw, Timothy C	Warden, FCC, Forrest City, AR.
Owen, John R	Warden FCI, Williamsburg, SC.
Pearson, Bruce A	Warden, FCC Yazoo City, MS.
Quintana, Francisco J	Warden, FCI Mckean, PA.
Rathman, John T	Warden, FDC, Miami, FL.
Reese, Constance N	Warden, FCI, Talladega, AL.
Revell, Sara M	Warden, USP High, Florence, CO.
Rios Jr., Hector A	Warden, USP, Big Sandy, KY.
Rivera, Mildred	Warden, FCI Estill, SC.
Sabol, Carolyn Ann	Warden, FMC, Devens, MA.
Samuels, Charles E. Jr	Senior Deputy Assistant Director of Correctional Programs Division.
Sanders, Linda L	Warden, FCC Lompoc, CA.
Schult, Deborah G	Warden, FCI, Ray Brook, NY.
Schultz, Paul M	Warden, FCI Fairton, NJ.

Name	Position title
Sherrod, William A	Warden, FCI Greenville, IL.
Smith, Dennis, R	Warden, USP Atwater, CA.
Snizek, Thomas R	Warden, FCI Schuylkill, PA.
Stansberry, Patricia R	Warden, FCC Petersburg, VA.
Stine, Donald L	Warden, USP, McCreary, KY.
Terrell, Dudley J	Warden, FMC, Rochester, MN.
White, Kim M	Regional Director, Middle Atlantic Region.
Whitehead, Jimmy D	Warden, FCI Cumberland, MD.
Wiley, Ronnie	Warden, FCC, Florence, CO.
Young Jr., Joseph P	Warden, FCC, Oakdale, LA.
Zuercher, Jerome C	Warden, FCI Pekin, IL.
Thigpen Sr, Morris L	Director National Institute of Corrections.

Civil Division—CIV

Baxter, Felix V	Branch Director (Federal Program).
Branda, Joyce R	Branch Director (Commercial).
Bruen Jr., James G	Special Litigation Counsel.
Coppolino, Anthony J	Special Litigation Counsel (Federal Programs).
Davidson, Jeanne E	Branch Director (National Courts)—Commercial Litigation Branch.
Fargo, John J	Branch Director (Commercial).
Frost, Peter F	Branch Director (Torts).
Garren, Timothy Patrick	Branch Director (Torts).
Garvey, Vincent Morgan	Deputy Branch Director (Federal Programs).
Glynn, John Patrick	Branch Director (Torts).
Granston, Michael D	Deputy Branch Director Civil Frauds.
Hertz, Michael F	Deputy Assistant Attorney General, Commercial Litigation Branch.
Hollis, Robert Mark	Office Director (Special Litigation Counsel).
Hunt, Joseph H	Branch Director (Federal Programs).
Hussey, Thomas W	Director, Oil Appellate Litigation.
Kanter, William G	Deputy Director (Appellate Staff).
Kirschman Jr., Robert E	Deputy Branch Director (Commercial).
Kline, David J	Branch Director Oil Federal District Court Litigation.
Kohn, J. Christopher	Branch Director (Commercial).
Kopp, Robert E	Director, Appellate Staff.
Letter, Douglas N	Appellate Litigation Counsel.
Lieber, Sheila M	Deputy Branch Director.
McConnell, David M	Deputy Director (Operations), Office of Immigration Litigation.
O'Malley, Barbara B	Special Litigation Counsel.
Pyles, Phyllis J	Branch Director (Torts).
Rivera, Jennifer D	Branch Director (Federal Programs).
Snee, Bryant G	Deputy Branch Director (Commercial).
Stern, Mark B	Appellate Litigation Counsel.
Thirolf, Eugene M	Director, Office of Consumer Litigation.
Zwick, Kenneth L	Director of Management Programs.
Beckner, C. Frederick	Deputy Assistant Attorney General.
Bucholtz, Jeffrey S	Principal Deputy Assistant Attorney General.
Cohn, Jonathan F	Deputy Assistant Attorney General (Appellate Staff).
Dupree Jr., Thomas	Deputy Assistant Attorney General (Immigration Litigation).
O'Quinn, John	Deputy Assistant Attorney General (Federal Programs).

Civil Rights Division—CRT

Baldwin, Katherine A	Deputy Special Counsel for Immigration-Related Unfair Employment Practices.
Brown-Cutlar, Shanetta Y	Chief, Special Litigation Section.
Coates, Harry Christopher	Chief, Voting Section.
Flynn, Diana Katherine	Chief, Appellate Section.
Friedlander, Merrily A	Chief, Coordination & Review Section.
Ginsburg, Jessica A	Counsel to the Assistant Attorney General.
Glassman, Jeremiah	Chief, Educational Opportunities Section.
Greene, Irva D	Executive Officer.
Kappelhoff, Mark John	Chief, Criminal Section.
King, Loretta	Deputy Assistant Attorney General.
Rosenbaum, Steven H	Chief, Housing and Civil Enforcement Section.
Tanner, John K	Counselor to the Voting Section Chief.
Wodatch, John L	Chief, Disability Rights Section.
Becker, Grace Chung	Deputy Assistant Attorney General.
Krigsten, Lisa	Principal Deputy Assistant Attorney General.
Liu, Jessie K	Deputy Assistant Attorney General.

Criminal Division—CRM

Ainsworth, Peter J	Senior Deputy Chief, Public Integrity Section.
Alexandre, Carl	Director, OPDAT.

Name	Position title
Blanco, Kenneth A	Deputy Assistant Attorney General.
Glazer, Sidney	Senior Appellate Counsel.
Keeney, John C	Deputy Assistant Attorney General.
Killion, Maureen H	Director, Office of Enforcement Operations.
McHenry, Teresa L	Chief, Domestic Security Section.
Morris, Brenda K	Principal Deputy Chief, Public Integrity Section.
Nash, Stuart G	Director, Organized Crime, Drug Enforcement Task Force.
Ohr, Bruce G	Chief, Organized Crime and Racketeering Section.
Oosterbaan, Andrew	Chief, Child Exploitation and Obscenity Section.
Padden, Thomas William	Principal Deputy, Chief for Operations, Narcotic and Dangerous Drug Section.
Painter, Christopher M	Deputy Chief, Computer Crime and Intellectual Property Section.
Parent, Steven J	Executive Officer.
Pelletier, Paul E	Deputy Chief for Litigation.
Reynolds, James S	Senior Counsel to the Assistant Attorney General.
Robinson, Stewart C	Principal Deputy Director, Office of International Affairs.
Rogers, Richard M	Senior Counsel to the Assistant Attorney General.
Rosenbaum, Eli M	Director, Office of Special Investigations.
Sabin, Barry M	Deputy Assistant Attorney General.
Stemler, Patty Merkamp	Chief, Appellate Section.
Swartz, Bruce Carlton	Deputy Assistant Attorney General.
Trevillian IV, Robert C	Director, International Criminal Investigative Training Assistance Program.
Tyrrell, Steven A	Chief, Fraud Section.
Warlow, Mary Ellen	Director, Office of International Affairs.
Weber, Richard M	Chief, Asset Forfeiture and Money Laundering Section.
Welch II, Wiluam M	Chief, Public Integrity Section.
Wroblewski, Jonathan J	Director Office of Policy and Legislation.
Friedrich, Matthew W	Senior Counsel.
Mandelker, Sigal P	Deputy Assistant Attorney General.
McNally, Edward E	Senior Counsel.

Environmental and Natural Resources Division—ENRD

Alexander, S. Craig	Chief, Indian Resources Section.
Bruffy, Robert L	Executive Officer.
Butler, Virginia P	Chief, Land Acquisition Section.
Clark II, Tom C	Principal Deputy Chief Resources Section.
Cruden, John C	Deputy Assistant Attorney General.
Disheroun, Fred R	Senior Litigation Counsel Attorney Examiner.
Fisherow, W. Benjamin	Deputy Chief Environment Enforcement.
Gelber, Bruce S	Chief, Environmental Enforcement.
Grishaw, Letitia J	Chief, Environmental Defense Section.
Haugrud, K. Jack	Chief, General Litigation Section.
Kilbourne, James C	Chief, Appellate Section.
Mahan, Ellen M	Deputy Chief, Environmental Enforcement Section.
Milius, Pauline H	Chief, Policy, Legislation and Special Litigation Section.
Mitchell, Stacey H	Chief, Environmental Crimes Section.
Randall, Gary B	Deputy Section Chief, Natural Resources Section.
Sobeck, Eileen	Deputy Assistant Attorney General.
Stewart, Howard P	Senior Litigation Counsel.
Vaden, Christopher S	Deputy Section Chief, Environmental Defense Section.
Williams, Jean E	Chief, Wildlife and Marine Resources.
Guzman, Michael	Principal Deputy Assistant Attorney General.
Nelson, Ryan D	Deputy Assistant Attorney General.

Executive Office for Immigration Review—EOIR

Creppy, Michael J	Chief Administrative Hearing Officer.
Nasca, Paula N	Associate Director.
Neal, David	Chief Immigration Judge.
Ohlson, Kevin A	Director.

Executive Office for U.S. Attorneys—EOUSA

Bailie, Michael W	Director, Office of Legal Education.
Bevels, Lisa A	Deputy Director Financial Management.
Downs, David W	Chief Operations Officer.
Macklin, James	General Counsel.
Melson, Kenneth E	Director.
Nowacki, John A	Principal Deputy Director.

Executive Office for U.S. Trustees—EOUST

Miller, Jeffrey M	Associate Director.
Redmiles, Mark A	Principal Deputy Director.

Name	Position title
White III, Clifford J	Director.
Justice Management Division—JMD	
Allen, Michael H	Deputy Assistant Attorney General for Policy, Management, and Planning and Chief of Staff.
Alvarez, Christopher C	Deputy Director (Auditing), Finance Staff.
Atsatt, Marilyn B	Deputy Director, Budget Staff.
Beasley, Roger	Director, Operation Services Staff.
Deacon, Ronald L	Director, Facility Administration Services Staff.
Defalaise, Louis	Director, Office of Attorney Recruitment and Management.
Dessy, Blane K	Director, Library Staff.
Dunlap, James L	Director, Security and Emergency Planning Staff.
Frisch, Stuart	General Counsel.
Frost-Tucker, Vontell D	Director, Equal Employment Opportunity Staff.
Haggerty, Kathleen A	Director, Debt Collection Management Staff.
Hitch, Vance E	Deputy Assistant Attorney General/Chief Information Officer.
Holtgrewe, Kent L	Director, IT Policy and Planning Staff.
Johnston, James W	Director, Procurement Services Staff.
Lauria-Sullens, Jolene A	Deputy Assistant Attorney General/Controller.
Markham, Rod E	Director, Human Resources.
Morgan, Melinda B	Director, Finance Staff.
Murray, John W	Director, Enterprise Solutions Staff.
Olds, Candace A	Director, Asset Forfeiture Management Staff.
O'Leary, Karin	Director, Budget Staff.
Olson, Eric R	Deputy, Chief Information Officer for E-Government Services Staff.
Orr, David Marshall	Director, Management and Planning Staff.
Santangelo, Mari Barr	Deputy Assistant Attorney General for Human Resources and Administration (CHCO).
Schultz Jr., Walter H	Deputy Director, Budget Staff, Operations and Funds Control.
National Drug Intelligence Center—NDIC	
Hernandez, Irene S	Deputy Director.
Walther, Michael F	Director, National Drug Intelligence Center.
National Security Division—NSD	
Bradley, Mark A	Special Counsel for Oversight Section.
Dion, John J	Chief, Counterespionage Section.
Kennedy, J. Lionel	Special Counsel for National Security Law and Policy.
Mullaney, Michael J	Chief, Counterterrorism Section.
Olsen, Matthew G	Deputy Assistant Attorney General FISA Operations and Intelligence Oversight.
Walter, Sheryl L	Executive Officer.
Demers, John C	Deputy Assistant Attorney General, Law and Policy.
Rowan, J. Patrick	Deputy Assistant Attorney General, Counterterrorism/Counter Espionage.
Office of Community Oriented Policing Services—COPS	
Peed, Carl R	Director.
Office of Information and Privacy—PIP	
Pustay, Melanie Ann	Director (Policy & Lit).
Office of the Inspector General—OIG	
Fortine Ochoa, Carol A	Assistant Inspector General for Oversight & Review.
Martin, Paul K	Deputy Inspector General.
McLaughun, Thomas F	Assistant Inspector General for Investigation.
Peters, Gregory T	Assistant Inspector General for Management & Planning.
Price, Paul A	Assistant Inspector General Evaluation and Inspection.
Robinson, Gail A	General Counsel.
Office of Intergovernmental and Public Liaison—OIPL	
Korn, Jennifer S	Director.
Office of Justice Programs—OJP	
Ayers, Nancy Lynn	Deputy Administrator for Policy, OJJDP.
Benda, Bonnie Leigh	Deputy, Chief Financial Officer.
Burch II, James H	Deputy Director, Policy and Management, Bureau of Justice Programs.
Feucht, Thomas E	Assistant Director, National Institute of Justice, Office for Research and Evaluation.
Garry, Eileen M	Deputy Director for Programs, Bureau of Justice Assistance.
Greenfeld, Lawrence A	Executive Science Advisor, National Institute of Justice.
Greenhouse, Dennis E	Director, Community Capacity Development Office.

Name	Position title
Iwanow, Walter	Chief Information Officer.
Madan, Rafael A	General Counsel.
McGarry, Beth	Deputy Assistant Attorney General, Operations Management.
Merkle, Phillip	Director, Office of Administration.
Morgan, John S	Assistant Director, National Institute of Justice, Office of Science and Technology.
Paull, Marcia K	Chief Financial Officer.
Roberts, Marilyn M	Deputy Administrator, OJJDP.
Harris, Gregory Paul	Deputy Administrator, OJJDP.
Holland, Eric	Deputy Assistant Attorney General.
McFarland, Steven T	Director, Office of Faith Based and Community Initiatives.
Rogers, Laura	Smart Coordinator.
Office of Legal Counsel—OLC	
Colborn, Paul P	Special Counsel.
Hart, Rosemary A	Special Counsel.
Koffsky, Daniel L	Deputy Assistant Attorney General.
Bradbury, Steven G	Principal Deputy Assistant Attorney General.
Elwood, John Patrick	Deputy Assistant Attorney General.
Engel, Steven A	Deputy Assistant Attorney General.
Papez, Elizabeth	Deputy Assistant Attorney General.
Office of Legal Policy—OLP	
Jones, Kevin Robert	Deputy Assistant Attorney General.
Thiemann, Robyn L	Deputy Assistant Attorney General.
Office of Legislative Affairs—OLA	
Burton, M. Faith	Special Counsel.
Nelson, Keith B	Principal Deputy Assistant Attorney General.
Seidel, Rebecca S	Deputy Assistant Attorney General.
Tracci, Robert N	Deputy Assistant Attorney General.
Office of Professional Responsibility—OPR	
Jarrett, Howard Marshall	Counsel on Professional Responsibility.
Wish, Judith B	Deputy Counsel on Professional Responsibility.
Office of Public Affairs—PAO	
Roehrkasse, Brian J	Director.
Office of the Federal Detention Trustee—OFDT	
Hylton, Stacia A	Federal Detention Trustee.
Office of the Pardon Attorney—OPA	
Rodgers, Ronald L	Pardon Attorney.
Office of the Solicitor General—OSG	
Dreeben, Michael R	Deputy Solicitor General.
Kneeder, Edwin S	Deputy Solicitor General.
Garre, Gregory G	Principal Deputy Solicitor General.
Professional Responsibility Advisory Office—PRAO	
Dunston, Jerri U	Director, Professional Responsibility Advisory Office.
Tax Division—Tax	
Cimino, Ronald Allen	Regional Chief, Western Region.
Dicicco, John	Deputy Assistant Attorney General, First Assistant to the Assistant Attorney General.
Donohue, Dennis M	Senior Litigation Counsel.
Heald, Seth G	Chief, Civil Trial Section, Central Region.
Hechtkopf, Alan	Chief, Criminal Appeals and Tax Enforcement Policy Section.
Hubbert, David A	Chief, Civil Trial Section, Eastern Region.
Hytken, Louise P	Chief, Civil Trial Section, Southwestern Region.
Kearns, Michael J	Chief, Civil Trial Section, Southern Region.
Meland, Deborah	Chief, Office of Review.
Mullarkey, Daniel P	Chief, Civil Trial Section, Northern Region.
Paguni, Rosemary E	Chief, Criminal Enforcement Section, Northern Region.
Rothenberg, Gilbert S	Chief, Appellate Section.

Name	Position title
Salad, Bruce M	Chief, Criminal Enforcement Section, Southern Region.
Shatz, Eileen M	Special Litigation Counsel.
Ward, Richard	Chief, Civil Trial Section Western Region.
Young, Joseph E	Executive Officer.
Morrison, Richard T	Deputy Assistant Attorney General.
U.S. Marshals Service—USMS	
Auerbach, Gerald	General Counsel.
Dolan, Edward	Assistant Director, Financial Services.
Dudley, Christopher C	Associate Director, Administration.
Farmer, Marc A	Assistant Director, Operations Support.
Finan, Robert J. II	Associate Director, Operations.
Jones, Sylvester E	Assistant Director, Witness Security and Prisoner Operations.
Pearson, Michael A	Assistant Director, Business Services.
Rolstad, Scott C	Assistant Director for Justice Prisoner and Alien Transportation System (JPATS).
Beckwith, Brian R	Deputy Director.

[FR Doc. E8–19600 Filed 8–25–08; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 08–1]

Elmer P. Manalo, M.D.; Dismissal of Proceeding

On August 30, 2007, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and Immediate Suspension of Registration to Elmer P. Manalo, M.D. (Respondent), of Greensburg, Indiana. The immediate suspension of Respondent's registration was based on my preliminary finding that Respondent posed an "imminent danger to public health or safety" because he prescribed schedule II and IV controlled substances to undercover law enforcement personnel on numerous occasions without a legitimate medical purpose and outside the scope of his professional practice. Show Cause Order at 1. The Show Cause Order further alleged that Respondent continued to prescribe controlled substances to certain persons notwithstanding that he had been specifically informed that these persons "were illegitimate drug seekers and addicts," and that several of his patients had "died due to mixed drug intoxication or accidental drug overdose." *Id.* at 2.

Following service of the Show Cause Order, Respondent, through his attorney, requested a hearing on the allegations and the ALJ proceeded to conduct pre-hearing procedures. Meanwhile, on October 2, 2007, the Medical Licensing Board of Indiana summarily suspended Respondent's registration for ninety days effective September 27, 2007. The State Board

subsequently extended the suspension an additional ninety days.

Thereafter, the Government moved for summary disposition on the ground that because Respondent lacked authority under state law to handle controlled substances, he was not entitled to maintain his DEA registration. Gov. Mot. for Summ. Disp. at 1 (citing 21 U.S.C. 801(21); 823(f); & 824(a)(3)). Responding to the Government's motion, Respondent did not dispute that his state license had been suspended. Respondent's Reply to DEA's Motion, at 1. Respondent, however, sought a stay of the issuance of the final order in this matter pending the resolution of the state proceedings.

Based on the undisputed fact that Respondent lacked authority to practice medicine in Indiana, and that it was reasonable to infer that he was also without authority to handle controlled substances under state law, the ALJ granted the Government's motion, noting the settled rule that "DEA does not have statutory authority under the [CSA] to maintain a registration if the registrant is without state authority to dispense controlled substances in the State in which he practices medicine." ALJ Dec. at 3 (citing 21 U.S.C. 823(f) & 824(a)(3)). The ALJ further denied Respondent's request to stay the proceeding. The ALJ then ordered that the hearing be cancelled, recommended that Respondent's registration be revoked and any pending renewal applications be denied, and forwarded the record to me for final agency action.

In reviewing the record, I noted that neither the Show Cause Order nor any other document establishes the status of Respondent's registration or whether Respondent has filed a timely renewal application. I therefore took official notice of the Agency's record pertaining to Respondent's registration. That record indicated that Respondent's

registration expired on January 31, 2008, and that Respondent had not filed a renewal application. *See* 5 U.S.C. 558(c). Accordingly, I found that Respondent is not currently registered with the Agency.

Under DEA precedent, "if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke." *Ronald J. Riegel*, 63 FR 67132, 67133 (1998). In other words, under ordinary circumstances the case is moot.

This case commenced, however, with the issuance of an Order of Immediate Suspension, and this Order was based on allegations that Respondent committed acts which rendered "his registration * * * inconsistent with the public interest." 21 U.S.C. 824(a)(4); *see also* Show Cause Order at 1–2. DEA has recognized a limited exception to the mootness rule in cases which commence with the issuance of an immediate suspension order because of the collateral consequences which may attach with the issuance of such a suspension. *See William R. Lockridge*, 71 FR 77791, 77797 (2006).

I also noted that in moving for summary disposition, the Government did not seek to litigate the allegations of the Order to Show Cause and Immediate Suspension. Rather, it relied on the different ground that Respondent no longer had authority under state law to handle controlled substances and thus was not entitled to be registered. *See* 21 U.S.C. 824(a)(3). I further observed that because Respondent did not file a renewal application, it is unclear whether he intended to remain in professional practice.

Accordingly, on May 6, 2008, I ordered that the parties brief the issue of whether this proceeding remains a live controversy. The Order further directed that if Respondent contended