Pursuant to 21 U.S.C. 823(f), the Administrator may deny an application for a DEA Certificate of Registration if he determines that the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate state licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether an application should be denied. *See* Henry J. Schwarz, Jr., M.D., 54 FR 16,422 (1989).

As to factor one, documentation in the file indicates that Respondent's license to practice dentistry was summarily suspended in 1990. Then effective May 22, 1990, Respondent and the Board entered into an Agreed Order whereby Respondent's license was suspended for six months followed by five years probation, he was fined $1,500.00, and he was precluded from seeking reinstatement of his DEA registration for at least five years. Respondent entered into another Agreed Order with the Board in January 1996, which suspended his license again for a 30 day period. As of 1998, Respondent's license was reinstated and he received permission from the Board to seek reinstatement of his DEA registration.

Regarding factors two and four, Respondent's experience in handling controlled substances and his compliance with applicable laws relating to controlled substances, the Administrator has considered what evidence is available to him. The Board orders found in the investigative file indicate that between October 1987 and February 1990, Respondent prescribed, administered, dispensed, and acquired controlled substances when he was not authorized to do so in violation of 21 U.S.C. 841(a)(1). In addition, during this same period, Respondent indiscriminately prescribed controlled substances to patients in amounts in excess of those amounts medically necessary, prescribed controlled substances to known drug abusers, acquired controlled substances by prescription for office use, and failed to keep proper dental records, all in violation of State and Federal laws.

The Administrator notes that there is no evidence in the investigative file of the underlying facts which led to the Board's findings. However, it is also noted that Respondent has not submitted any contradictory evidence.

As to factors three and five, there is no evidence in the investigative file that Respondent has been convicted of any controlled substance related offense nor of any other conduct by Respondent that may threaten the public health and safety.

The Administrator concludes that while there is no evidence of the underling facts which led to the Board's actions, it is clear that Respondent's mishandling of controlled substances was serious enough to warrant the suspension of his dental license. Respondent has not presented any mitigating evidence. Therefore, the Administrator concludes that Respondent's registration would be inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 0.100(b), hereby orders that the application for registration submitted by Alfred R. Brown, D.D.S., be, and it hereby is, denied. This order is effective October 17, 2000.

Dated: August 3, 2000.

Donnie R. Marshall,

Administrator.

[FR Doc. 00–21005 Filed 8–17–00; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Church of the Living Tree; Denial of Application

On November 4, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to The Church of the Living Tree of Leggett, California, notifying it of an opportunity to show cause as to why DEA should not deny its application for registration as a manufacturer of marijuana, under 21 U.S.C. 823(a), for reason that its intended purpose for the marijuana is not in conformity with the Controlled Substances Act. The order also notified The Church of the Living Tree that should no request for a hearing be filed within 30 days of receipt of the Order to Show Cause, its hearing right would be deemed waived.

DEA received a signed receipt indicating that the Order to Show Cause was received by Mr. John Stahl, the individual who signed the application for registration on behalf of The Church of the Living Tree. The original postal return receipt was postmarked in Leggett, California on November 16, 1999, and the signed receipt was received by DEA on December 1, 1999. No request for a hearing or any other reply was received by the DEA from The Church of the Living Tree or anyone purporting to represent it in this matter. Therefore, the Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that The Church of the Living Tree is deemed to have waived its hearing right. After considering material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Administrator finds that documentation in the file in this matter indicates that The Church of the Living Tree is seeking to manufacture and distribute marijuana for human consumption. Marijuana is a Schedule I controlled substance and as such there is no currently accepted medical use in treatment in the United States. Here it appears that The Church of the Living Tree wants to grow marijuana to be consumed by medical marijuana patients, which is an impermissible use under the Controlled Substances Act. See 21 U.S.C. 812(b)(1), 822(b), and 841(a)(1). Therefore, The Church of the Living Tree's application must be denied.

The Church of the Living Tree did not respond to the Order to Show Cause and consequently did not present any evidence to refute the Government's assertions.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 0.100(b), hereby orders that the application for registration submitted by The Church of the Living Tree, be, and it hereby is, denied. This order is effective August 18, 2000.

Dated: August 3, 2000.

Donnie R Marshall,

Administrator.

[FR Doc. 00–21006 Filed 8–17–00; 8:45 am]

BILLING CODE 4410–09–M