

either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 20, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 02-34]

Raphael Arwas, D.D.S., Revocation of Registration

On February 21, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Raphael Arwas, D.D.S. (Respondent), proposing to revoke his DEA Certificate of Registration, BA3513050, pursuant to 21 U.S.C. 824(a)(3) and deny any pending applications for renewal or modification of such registration under 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that the Respondent is not currently authorized to practice dentistry or handle controlled substances in Florida, the state in which he practices.

By letter dated March 20, 2002, the Respondent, through counsel, requested a hearing in this matter. On March 27, 2002, the Government filed Government's Motion for Summary Disposition. On March 28, 2002, the presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued a Memorandum to Counsel providing Respondent until April 18, 2002, to respond to the Government's Motion. However, the Respondent did not file a response.

On April 29, 2002, Judge Bittner issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision) in which she granted the Government's motion for summary disposition and found that the Respondent lacks authorization to handle controlled substances in the State of Florida. In granting the Government's motion, Judge Bittner also recommended that the Respondent's

DEA registration be revoked and any pending applications for modification or renewal be denied. Neither party filed exceptions to her Opinion and Recommended Decision, and on May 29, 2002, Judge Bittner transmitted the record of these proceedings to the Office of the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision to the Administrative Law Judge.

The Deputy Administrator finds that the Respondent currently possesses DEA Certificate of Registration BA3513050, issued to him at an address in Aventura, Florida. The Deputy Administrator further finds that on December 12, 2001, the State of Florida Department of Health (Department of Health) issued an Order of Emergency Suspension of License suspending the Respondent's license to practice dentistry. In addition, a Continuing Education Providers Information document provided by the Government with its Motion for Summary Disposition reveals that the Respondent's dental license remained suspended as of January 29, 2002. There is no evidence before the Deputy Administrator that the suspension has been stayed or lifted. In her Opinion and Recommended Decision, Judge Bittner found that the Respondent is without state authority to handle controlled substances.

Therefore, the Deputy Administrator finds that the Respondent is not currently authorized to practice dentistry in the State of Florida and as a result, it is reasonable to infer that he is also without authorization to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Muttaiya Darmarajeh, M.D.*, 66 FR 52936 (2001); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Here, it is clear that Respondent is not licensed to handle controlled substances in Florida. Since Respondent lacks such authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Bittner properly granted the Government's

Motion for Summary Disposition. The parties do not dispute the fact that Respondent is currently without authorization to handle controlled substances in Florida. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See *Gilbert Ross, M.D.*, 61 FR 8664 (1996); *Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BA3513050, issued to Raphael Arwas, D.D.S. be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective October 25, 2002.

Dated: September 18, 2002.

John B. Brown III,

Deputy Administrator.

[FR Doc. 02-24275 Filed 9-24-02; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 6, 2001, and published in the **Federal Register** on April 17, 2001, (66 FR 19796), Gateway Specialty Chemicals Company, 4170 Industrial Drive, St. Peters, Missouri 63376, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of phenylacetone (8501), a basic class of controlled substance listed Schedule II.

The firm plans to manufacture the controlled substance for its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Gateway Specialty Chemicals Company to manufacture is consistent with the public interest at this time. DEA has investigated Gateway Specialty Chemicals Company to ensure that the company's continued registration is consistent with the public