

submission, as it seeks to introduce evidence not submitted at the hearing in this matter. See Richard S. Wagner, M.D. 63 FR 6771 (1998).

On August 20, 2002, the Deputy Administrator received from Government counsel a letter, with attachments, informing that due to an administrative oversight, DEA Certificate of Registration, BL6652312, was erroneously issued to the Respondent on February 9, 2000. In light of the Respondent's current registration status, the question for resolution now before the Deputy Administrator is whether or not the Respondent's continued registration with DEA is inconsistent with the public interest.

The Deputy Administrator finds that the Respondent previously possessed DEA Certificate of Registration AL0033186. On June 21, 1989, an Order to Show Cause was issued proposing to revoke that Certificate of Registration. Robert A. Leslie, M.D. 64 FR 25908 (1999). The Respondent initially requested a hearing, but later requested the opportunity to submit a written statement in lieu of a hearing. Based on the Government's investigative file and Respondent's written statement, the then-Acting Administrator revoked Respondent's registration effective August 17, 1990. See 55 FR 29,278 (July 18, 1990).

In February 1992, Respondent applied for a new DEA registration. An Order to Show Cause was issued on May 13, 1993, proposing to deny the application. Following a hearing before Judge Bittner, the then-Deputy Administrator adopted Judge Bittner's recommended ruling and denied the Respondent's application for registration, effective March 15, 1995. See 60 FR 14,004 (1995).

During the 1993 proceeding before Judge Bittner, the record established that on October 9, 1986, after a jury trial, Respondent was found guilty in the Municipal Court of Long Beach, California, of eight misdemeanor counts of unlawfully prescribing, administering, furnishing, or dispensing controlled substances between July 1985 and January 1986. The convictions were affirmed on appeal by the Appellate Department of the Superior Court, State of California, on May 18, 1988. As a result of these convictions, the California Board of Medical Quality Assurance (Board), on a date not specified in the record, revoked the Respondent's medical license. However, the Board stayed the revocation for five years, suspended Respondent from the practice of medicine for ninety days, and placed him on probation subject to

various conditions. In response to the Board's decision, the Respondent sued the Board, but was unsuccessful. The court in which Respondent brought the action ultimately fined him \$10,000 and found that his appeal was frivolous. In addition, the court found that the Respondent must "accept responsibility for his actions."

As outlined in a prior final order, the then-Deputy Administrator found at the 1993 hearing, the Respondent attacked his criminal convictions. See 64 FR 25908 (May 13, 1999). However, Judge Bittner and the then-Deputy Administrator found that the conviction was *res judicata* and that Respondent was therefore prohibited from relitigating the matter. The agency also found that although he was free to offer evidence that he would never again engage in the sort of conduct that resulted in his conviction, Respondent did not avail himself of that opportunity and offered no evidence of remorse for his misconduct, efforts at rehabilitation, or recognition of the severity of his conduct. Judge Bittner and the then-Deputy Administrator therefore concluded that Respondent was either unwilling or unable to discharge the responsibilities of a DEA registrant and recommended that his application be denied. Respondent filed a petition for review of the 1995 final order in the United States Court of Appeals for the Ninth Circuit. The court denied that petition on August 5, 1996.

On December 13, 1996, Respondent again applied for a DEA registration, and an Order to Show Cause was issued on December 23, 1997, proposing to deny the application. Following a hearing, Administrative Law Judge Gail A. Randall recommended that the application be granted, subject to certain conditions. Judge Randall found that Respondent had been forthcoming on his registration application about his convictions and prior DEA proceedings, there were no new allegations that Respondent had handled controlled substances improperly after his 1986 conviction, and there had been no complaints or adverse actions against his medical license since the 1988 Board proceeding. Judge Randall further found that Respondent had continued to make valuable contributions to the medical profession; participated in continuing medical education; there were no restrictions on his medical license in California; and Respondent had become more conservative in his approach to prescribing controlled substances.

In the May 13, 1999, Final Order, the then-Deputy Administrator found that the final order published on March 15,

1995, was *res judicata* for purposes of the proceeding before him, and adopted that final order in its entirety. 64 FR 25908, *supra*. While the then-Deputy Administrator adopted the findings of fact and conclusions of law as set forth, he did not adopt the recommended ruling of the Administrative Law Judge. Instead, the Deputy Administrator found that in addition to his criminal conviction and the suspension of his medical license, the Respondent was unrepentant, and continued to blame everyone but himself for his unlawful actions. Therefore, the then-Deputy Administrator concluded that Respondent's registration would not be consistent with the public interest and denied the application.

On June 29, 1999, Respondent again applied for a DEA registration to handle controlled substances. That application and the disposition of the Certificate of Registration that was mistakenly issued to the Respondent, are the subjects of the instant proceedings.

The Deputy Administrator finds that the Respondent's June 1999 application was forwarded to DEA's Los Angeles office for investigation because Respondent had answered "yes" to questions on the form that ask whether the applicant has ever been convicted of a crime in connection with controlled substances, ever surrendered or had adverse action taken on a federal controlled substance registration, or has ever had action taken against a state professional license or controlled substance registration. A DEA Diversion Investigator testified that on November 24, 1999, she spoke with the Respondent and asked him why he believed his application should be granted. According to the investigator, the Respondent attacked the prior DEA and criminal proceedings in which he had been involved, but did not say anything that would suggest that he would act responsibly in the future if his application were granted, nor did he divulge any actions he had taken that would support his application.

Respondent then wrote a ten-page letter dated November 25, 1999, to the Diversion Investigator explaining his position with respect to the 1986 conviction and his efforts first to maintain and then to regain DEA registration. Specifically, the Respondent made various claims regarding the inadequacy of the 1986 criminal proceedings resulting in his conviction, as well as his legal representation during those proceedings. In support of the latter assertion, Respondent offered into evidence in the instant matter a letter from the State Bar of California dated