

September 2001, Dr. Clair sought to renew his DEA registration when he submitted an undated application for renewal. In response to a question on the application which asks the applicant whether he has ever had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, Dr. Clair replied in the affirmative. He supplemented that response with a written explanation where he asserted that his Maryland dental license had been revoked in August 2000 for a period of five years, but the revocation action was "not related in any way to the prescribing of controlled substances." Dr. Clair further wrote that he is " \* \* \* actively licensed in [Florida] and [Massachusetts]."

The Deputy Administrator's review of the investigative file reveals that on September 17, 2001, the State of Florida Board of Dentistry (Dental Board) entered a Final Order revoking Dr. Clair's state license to practice dentistry. The Dental Board's action was taken in response to the revocation of Dr. Clair's license to practice in the State of Maryland on August 12, 1999. The Dental Board also based its action in part upon findings that while practicing dentistry in Maryland, Dr. Clair performed unnecessary dental procedures on patients and encourage dentists who worked for him to do the same.

Despite assertions of professional good standing in Florida which accompanied his most recent DEA renewal application, there is no evidence before the Deputy Administrator to rebut findings that Dr. Clair's Florida dental license has been revoked and has not been reinstated. Therefore, the Deputy Administrator finds that since Dr. Clair is not currently authorized to practice dentistry in Florida, it is reasonable to infer that he is not authorized 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 Richard J. Clement, M.D., 68 FR 12103 (2003); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Dr. Clair is not licensed to handle controlled substances in Florida, where he is registered with

DEA. Therefore, he is not entitled to maintain that registration.

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, BC1867172, issued to Michael Jerome Clair, D.D.S., be, and it hereby is, revoked. The Deputy Administrator further orders that Dr. Clair's pending application for renewal of the aforementioned registration be, and it hereby is, denied. This order is effective June 9, 2003.

Dated: April 21, 2003.

**John B. Brown, III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 02-41]

#### **Jacqueline Cleggett-Lucas, M.D., JCL Enterprises, L.L.C., Revocation of Registration**

On March 21, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jacqueline Cleggett-Lucas, M.D., and JCL Enterprises, L.L.C. (Respondents)<sup>1</sup>, proposing to revoke her DEA Certificate of Registration, BC3404681, pursuant to 21 U.S.C. 824(a)(4) 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 Respondents' continued registration would be inconsistent with the public interest and that the Respondent was no longer authorized to handle controlled substances in Louisiana, the State in which she practices.

By letter dated April 24, 2002, the Respondents, through legal counsel, requested a hearing in this matter. In the request for hearing, the Respondents legal counsel argued that "(Respondents) have not been found guilty of 'prescribing large amounts of controlled substances in an

inappropriate (manner) to many people who do not [have] proven indications for the need of pain alleviating drugs.' " The Respondents further asserted that any decision involving the DEA license at issue should be withheld pending the outcome of a scheduled hearing before the Louisiana State Board of Medical Examiners (Board).

On May 31, 2002, the Government filed Government's Motion for Summary Disposition and a request for stay of proceedings pending a ruling on its motion. On June 3, 2002, the presiding Administrative Law Judge Gail A. Randall (Judge Randall) issued an Order providing Respondents until June 24, 2002, to respond to the Government's motion. However, the Respondents did not file a response.

On July 19, 2002, Judge Randall issued her Opinion, Order, and Recommended Ruling of the Administrative Law Judge (Opinion and Recommended Ruling) where she granted the Government's motion for summary disposition and found that the Respondents lack authorization to handle controlled substances in the State of Louisiana. In granting the Government's motion, Judge Randall also recommended that the Respondents' DEA registration be revoked and any pending applications for renewal be denied. Neither party filed exceptions to her Opinion and Recommended Ruling, and on October 29, 2002, Judge Randall 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 finds that the Respondents are currently registered as a practitioner under DEA Certificate of Registration BC3404681. That registration was issued under the names of two separate entities at an address in New Orleans, Louisiana. On February 14, 2002, the Board issued its Order for Summary Suspension of Medical License with respect to the Respondents' Louisiana medical license. The Board's action was based on a finding that the Respondent inappropriately prescribed "large amounts of controlled drugs" to individuals for no legitimate medical purpose. While the Civil District Court of Louisiana granted the Respondents' subsequent request for stay of the Board's suspension order, that same court lifted the stay on February 22, 2002, and reinstated the suspension of Respondents' medical license.

<sup>1</sup> In her July 19, 2002, Opinion, Order, and Recommended Ruling, Administrative Law Judge Gail A. Randall noted that for purposes of these proceedings, the two names represented herein are separate entities who obtained a single DEA registration by virtue of Dr. Cleggett-Lucas' ability to handle controlled substances. The Deputy Administrator hereby adopts that finding for purposes of this final ruling.