

Controlled Substances Act. 21 U.S.C. 801(34); 21 CFR 1310.02(a). Pseudoephedrine and ephedrine are list I chemicals that are commonly used to illegally manufacture

methamphetamine, a Schedule II controlled substance. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

A "regulated person" is one who manufactures, distributes, imports, or exports *inter alia* a listed chemical. 21 U.S.C. 802(38). A "regulated transaction" is *inter alia*, a distribution, receipt, sale, importation, or exportation of a threshold amount of a listed chemical. 21 U.S.C. 802(39). The Deputy Administrator finds all parties mentioned herein to be regulated persons, and all transactions mentioned herein to regulated transactions, unless otherwise noted.

The Deputy Administrator finds that on June 23, 1999, Isabelle DeLuce (Ms. DeLuce) submitted an application on behalf of MDI for registration with DEA as a distributor of list I chemicals. At the time of the submission of its application, MDI was a distributor of various non-chemical products such as vitamins, herbal products and novelty items. MDI was and is operated by Ms. DeLuce and her husband Michael Uzan (Mr. Uzan).

On October 27, 1999, DEA Diversion Investigators conducted an on-site pre-registration interview of Ms. DeLuce and Mr. Uzan at MDI's proposed registered location. During the interview, investigators warned MDI's owners about the diversion of ephedrine and pseudoephedrine to the illicit production of methamphetamine. The investigators also discussed DEA regulations pertaining to list I chemicals. Ms. DeLuce and Mr. Uzan informed the investigators that they understood the regulations and would comply with all laws pertaining to listed chemicals. Ms. DeLuce also informed investigators that she anticipated that listed chemicals would comprise only 20% of MDI's sales and that these products would be sold to convenience stores and gas stations located only in the State of Montana. Shortly thereafter, MDI was issued a DEA registration as a list I chemical distributor for ephedrine, phenylpropanolamine and pseudoephedrine.

The Deputy Administrator finds that MDI has purchased listed chemicals from a DEA registrant that was the subject of a criminal investigation involving the mishandling of these products. A review of the investigative file reveals that on August 3, 2000, a

Federal search warrant was executed at Wholesale Outlet at its location in Beaumont, Texas. At the time the warrant was executed, Wholesale Outlet was a DEA-registered distributor of list I chemicals. The issuance of the search warrant arose from an ongoing DEA investigation into Wholesale Outlet's listed chemical handling practices. Mediplus Innovations; Suspension of Shipments, 67 FR 41256, 41259 (2002). During the execution of the search warrant, law enforcement officers recovered, among other things, numerous invoices reflecting MDI's purchases of various products from Wholesale Outlet. Of note was MDI's purchase of \$15,840 worth of single entity "Twin Pseudo" brand pseudoephedrine, 60 mg. in 120-count bottles.

Effective May 30, 2002, the Deputy Administrator sustained DEA's suspension of listed chemical shipments imported by a DEA registered importer and destined for sale to Wholesale Outlet. Mediplus at 41256, 41264. Among the reasons cited for sustaining the suspensions was the pending criminal investigation involving Wholesale Outlet, including allegations of is suspected misconduct in the handling of list I chemicals, as well as a DEA audit which revealed Wholesale Outlet's failure to account for listed chemicals that it purchased, in violation of 21 U.S.C. 830(a) and 842(a)(10) and 21 CFR 1310.03 and 1310.06. Mediplus at 41263-64. Moreover, the Deputy Administrator found in sustaining the suspensions that pseudoephedrine products distributed by Wholesale Outlet (the same products purchased by MDI from the firm) were found at various clandestine locations throughout the United States and used in the illicit manufacture of methamphetamine.

On August 17, 2000, a DEA Diversion Investigator requested that Ms. DeLuce provide a current customer/supplier list for listed chemicals. Ms. DeLuce informed the investigator that all but two of MDI's 72 customers were located in Nevada, with the majority conducting business in the greater Las Vegas. After providing the requested list of suppliers, Ms. DeLuce stated that MDI purchased 50 to 70 cases of pseudoephedrine, 60 mg., in 120-count bottles, and twenty-two cases of pseudoephedrine, 60 mg. in 60-count bottles on a monthly basis.

The Deputy Administrator's review of the investigative file further reveals that on or about November 30, 2000, Ms. DeLuce and Mr. Uzan were stopped in their automobile by the Las Vegas Police Department and issued a traffic citation. At the time of the traffic stop, the police

officer noticed several cases of pseudoephedrine in the back seat of the vehicle. Ms. DeLuce and Mr. Uzan volunteered that they were distributing or selling pseudoephedrine to local businesses. On a subsequent occasion, Ms. DeLuce was again stopped in her vehicle by law enforcement officers while transporting quantities of pseudoephedrine. During this traffic stop, Ms. DeLuce provided a copy of her DEA registration and informed law enforcement officers that she was aware that pseudoephedrine could be diverted to the illicit manufacture of methamphetamine. During this traffic stop, Ms. DeLuce told the officers that she limited her sales to just one case per customer and that she sold pseudoephedrine to 50 clients about once a month in the greater Las Vegas area because she could not find enough customers in Montana.

Pursuant to 21 CFR 1310.05(a)(1) DEA registrants are required to notify DEA in the event of any regulated transactions involving an extraordinary quantity, an uncommon method of payment or delivery, or any other circumstance that indicates that the listed chemical may be used unlawfully. The Deputy Administrator finds that the manner in which Ms. DeLuce and Mr. Uzan transported listed chemicals products in their automobile created a climate for diversion. Therefore, its failure to notify DEA of the uncommon means of transporting a listed chemical results in a finding that MDI, through the actions of its owners, was in violation of section 1310.05.

On April 15, 2001, pursuant to an administrative subpoena, MDI produced its records for the purchase of pseudoephedrine between March 2000 and October 2000. These records revealed that MDI purchased 106,563 bottles of pseudoephedrine valued at \$342,758.00 from four (4) different suppliers over that time period.

MDI also produced its customer list for DEA inspection. A majority of the customers were located in Las Vegas, Nevada, and consisted primarily of gas stations, smoke shops, mini marts and other types of convenience stores. Included among MDI's list of customers was Mike's Smoke Shop, located at 2923 North Avenue in Grand Junction, Colorado. This establishment was owned by Mike Yako (Mr. Yako). During a follow-up investigation on February 13, 2001, DEA special agents discovered that Mike's Smoke Shop had moved to its business location around July 2000 but was evicted from that location in either August or September 2000 for non-payment of rent. Further investigation revealed that during the