

sales. This analysis was consistent with sales data provided by the convenience store industry.

DEA clandestine laboratory teams continue to note the trend in laboratories toward smaller capacity laboratories. This is likely due to the ease of concealment associated with smaller capacity laboratories. This is likely due to the ease of concealment associated with smaller laboratories and the ability to acquire listed chemical precursor product from smaller sources. Small capacity labs continue to dominate law enforcement seizures and environmental cleanups. Small illicit laboratories operate with listed chemical products often procured, legally or illegally, from non-traditional retailers of over-the-counter drug products, such as gas stations and small retail markets. Some retailers acquire product from multiple distributors to mask their acquisition of large amounts of listed chemicals.

DEA investigators have learned that the primarily market shares for sales of combination ephedrine products belong to the manufacturers of Primatene and Bronkaid products. The national sales of these products in tablet forms have been on the decline for several years, since end-users prefer an inhalant version. In addition, DEA knows that the nationwide sales of combination ephedrine in the traditional market are much smaller than the market for other traditional cough and cold remedies, including products containing pseudoephedrine.

On May 1, 2001, Ms. Wrigley submitted, on behalf of her company, an application for DEA registration as a distributor of the List I chemicals ephedrine, pseudoephedrine and PPA. Respondent's listed address on the application was in 7636 Village Trail, Dallas, Texas 75240. The application was received by the Dallas Field Division.

DEA investigators learned that in early 2001, Ms. Wrigley applied for a Precursor Chemical/Laboratory Apparatus Business permit with the Texas Department of Public Safety (DPS) under the name Dynamic Wholesalers, at a listed address of 840 Central Parkway East, #120, in Plano Texas. A subsequent inspection of the physical location revealed that Ms. Wrigley had not physically occupied the premises, and the telephone number listed on the application was found to be fictitious.

On December 11, 2001, Ms. Wrigley filed a second application for licensure to DPS under the name Spa Dynamic Wholesalers, with a business address of 1108 Summit Avenue #6, Plano, Texas.

Ms. Wrigley subsequently informed DEA that she would seek registration at this location, and not the location provided in her May 2001 application for DEA registration. On December 11, 2001, DEA investigators accompanied a DPS investigator during DPS's inspection of Respondent at the Summit Avenue location. When the investigators arrived at that location, they found it unlocked and vacant, without furniture or telephone service. The property manager at the location told the investigators that Ms. Wrigley failed to sign a contract and had not taken possession of the location. The property manager also said that on the previous day, Ms. Wrigley stated that she would not be occupying the Summit Avenue location for business purposes.

On December 11, 2001, DEA investigators contacted Ms. Wrigley, informed her of their concerns, and requested that she withdraw her application. Ms. Wrigley refused to withdraw, and informed the investigators that her company would be ready for a pre-registrant inspection on December 20, 2001.

On December 20, 2001, DEA investigators went to Respondent's physical location on Summit Avenue and conducted a pre-registration investigation of Respondent. Ms. Wrigley informed the investigators that Respondent intended to distribute List I chemicals to convenience stores in the Dallas Metropolitan area. She estimated that List I chemicals would comprise 30 to 45 percent of her business. Ms. Wrigley stated that she had no experience with sales of OTC medications or listed chemicals. She informed the investigators that her brother in Kansas owned a wholesale establishment selling similar products and was "making a lot of money," so she wanted to do the same.

Ms. Wrigley also admitted that she had no experience in reporting suspicious orders. The investigators advised her of the reporting requirements and provided her by facsimile a copy of the threshold regulations. The investigators advised Ms. Wrigley of the necessity of identifying and verifying customers, and of DEA recordkeeping requirements. The investigators inspected the security measures at Respondent's location and found that security was adequate.

When asked which brands of List I chemicals she intended to sell, Ms. Wrigley provided a list of brand names, many of which are manufactured by companies whose products had been found in methamphetamine lab dump sites. Moreover, the list of products provided by Ms. Wrigley contained only

ephedrine and ephedrine combination products. The list showed that Ms. Wrigley intended to sell, among other things, 60 count bottles of ephedrine. This is significant in that this type of packaging is not normally seen in traditional retail establishments, and is the packaging favored by methamphetamine manufacturers.

When asked about the identity of her customers, Ms. Wrigley provided the investigators with a list of five customers. When called by the investigators, three of the five customers had either never heard of Respondent or Ms. Wrigley, or indicated that they would not be buying from Respondent. One customer was waiting for Respondent to mail him its inventory so that he could determine whether he would become a customer of Respondent. One customer indicated that she would buy from Respondent.

Ms. Wrigley also provided a "cold call list" that she had purchased. She said that she intended to use the list to obtain more customers. A review of the list by DEA investigators showed that most of the potential customers on the list were convenience stores.

Based upon the above, the Acting Deputy Administrator will now consider the factors used by DEA to determine whether the issuance of a DEA Certificate of Registration is in the public interest. Under 21 U.S.C. 823(h), the Attorney General shall register an applicant to distribute a List I chemical unless the Attorney General determines that the registration of the applicant is inconsistent with the public interest. (This function has been delegated to Administrator of DEA.) In considering the public interest, the Acting Deputy Administrator shall consider

1. Maintenance by the applicant of effective controls against diversion of listed chemical into other than legitimate channels;

2. Compliance by the applicant with applicable Federal, State, and local laws;

3. Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

4. Any past experience of the applicant in the manufacture and distribution of chemicals and

5. Such other factors as are relevant to and consistent with the public health and safety.

Consideration of the first factor weighs against Respondent. Security was adequate at the physical location of the business that the DEA investigators visited. Based upon the investigators' inability to contact Ms. Wrigley in