

material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1309.53(c) and (d) and 1316.67 (2003). The Administrator finds as follows:

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine and ephedrine are list I chemicals commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance.

Phenylpropanolamine, also a list I chemical, is a legitimately manufactured and distributed product used to provide relief of the symptoms resulting from irritation of the sinus, nasal and upper respiratory tract tissues, and is also used for weight control.

Phenylpropanolamine is also a precursor chemical used in illicit manufacture of methamphetamine and amphetamine. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

DEA has obtained information that suggests a growing public health crisis in the State of Oklahoma concerning the abuse of methamphetamine. Contained within the investigative file is a chart prepared by the Oklahoma Bureau of Narcotics, which documents methamphetamine laboratory seizures by various law enforcement entities in that state. According to the chart, there were a total of 4,111 methamphetamine lab seizures in the State of Oklahoma from 1996 to 2002. In 2001 alone, there were 1,193 such seizures. In response to this public health threat, on May 22, 2002, the Governor of Oklahoma signed into law a provision which, among other things, makes it illegal under state law to possess or sell any product containing pseudoephedrine with intent to manufacture methamphetamine or another controlled substance. The new law also makes unlawful the sale of listed chemical products with the knowledge that they will be used as a precursor to manufacture methamphetamine. Okl. St., Sections 2-332, 2-333, See 21 U.S.C. 841(c).

The Administrator's review of the investigative file reveals that DEA received an application dated October 21, 1999, on behalf of Shani. The application was submitted by the company's owner, Tariq Maqsood (Mr. Maqsood). The applicant sought DEA registration as a distributor of the list I chemicals pseudoephedrine and phenylpropanolamine. On August 23, 2000, Mr. Maqsood submitted a letter to the DEA Oklahoma City District Office

requesting the withdrawal of pseudoephedrine from Shani's DEA registration application. Because Shani did not submit its application for registration on or before July 12, 1997, the firm did not qualify for temporary exemption from the requirement of registration, pursuant to 21 CFR 1309.10.

The Administrator finds that on March 10, 2000, DEA Diversion Investigators conducted a pre-registration inspection on Shani. DEA's investigation revealed that Shani, a sole proprietorship located in Oklahoma City, Oklahoma, specializes in the retail sale of tobacco products, vitamins, candy, and over-the-counter products such as aspirin and ibuprofen. At the time of DEA's on-site preregistration inspection, Shani was located at 532-B North Pennsylvania Avenue in Oklahoma City. The company was situated in a commercial warehouse area and was constructed with both brick and center block. The commercial roof was metal and rock design. Mr. Maqsood informed DEA investigators that in the event Shani's registration application was approved, list I chemical shipments would be received at the back warehouse door. That door was constructed of steel, secured by two sliding bars and a contact switch. After verification of the shipment, the chemicals were to be moved to a secured storage area. The customer entrance door was reinforced with glass and metal and secured with burglar bars, key-lock and the premises were secured with infrared motion detectors and an alarm system.

During the inspection, Mr. Maqsood further informed DEA investigators that he anticipated selling pseudoephedrine (60 mg., 60-ct. bottles) and phenylpropanolamine products to small convenience stores and food marts throughout the Oklahoma City area. Despite Mr. Maqsood's stated intent to sell listed chemical products, DEA's investigation revealed that Shani had no procedures in place to identify "suspicious" activity regarding a regulated transaction, in order to report such activity to DEA as required by 21 U.S.C. 830(b)(1)(A) and 21 CFR 1310.05(a)(1). Mr. Maqsood also informed DEA investigators that he had no experience with suspicious orders related to listed chemicals.

Mr. Maqsood further stated that Shani's sale of listed chemical products would be limited to approximately 48 bottles (or approximately eleven cases) per customer each month. When asked about potential suppliers of these products, Mr. Maqsood provided DEA investigators with the names of six

companies. The companies were located in the states of California or Texas.

DEA's investigation revealed that in 1997, one of Shani's prospective suppliers (hereinafter referred to as "JGKC"), located in Los Angeles, California received 90 million 60mg. tablets of pseudoephedrine, with most of the product diverted to clandestine methamphetamine labs in southern California. In March of that year, JGKC's ephedrine products were also discovered at a clandestine methamphetamine laboratory site in the Los Angeles area. DEA documented several additional instances where listed chemical products distributed by JGKC were eventually diverted to illicit uses.

DEA's investigation further revealed that a second prospective listed chemical supplier to Shani (hereinafter referred to as "AWD") supplied over six million tablets of ephedrine to a liquor store in 1996. Such distribution practices to a liquor store were apparently in excess of legitimate demand for these products. AWD's pseudoephedrine products were also discovered at a clandestine methamphetamine lab site in the State of California.

An investigation of a third prospective listed chemical supplier (hereinafter referred to as "IWI") revealed the sale of large quantities of pseudoephedrine to individuals involved in the illicit sale of listed chemicals in May 1996. DEA developed further information that in October 1996, law enforcement personnel seized 864,000 pseudoephedrine tablets from IWI in Dallas, Texas. Approximately one month later, an additional 432,000 pseudoephedrine tablets were seized from IWI on one occasion, and another 30 cases of that same product were subsequently seized. In 1998, IWI reported that it lost a shipment of 720 bottles of "Heads Up" 2-Way listed chemical product. In 1999, IWI was the intended recipient of 1,872 bottles of pseudoephedrine that were seized by law enforcement personnel in Upland, California. DEA further documented numerous excessive or suspicious purchases and sales of pseudoephedrine and ephedrine by IWI from 1993 to 2000.

As noted above, Mr. Maqsood submitted a letter to DEA requesting withdrawal of pseudoephedrine from his company's DEA registration application. As a result, on November 1, 2000, representatives from the DEA Oklahoma City District Office prepared a written memorandum of agreement (MOA) which contained conditions that would allow Shani to handle