make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[5] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Date: April 20, 2016
Respectfully Submitted,
____/s/ Kenneth A. Libby
Kenneth A. Libby
Special Attorney

[5] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States v. Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, c/o Department of Justice, Washington, D.C. 20530, Plaintiff, v. *LEUCADIA NATIONAL CORPORATION, 520 Madison Avenue, New York, NY 10022,* Defendant.
CASE NO.: 1:15–cv–01547
JUDGE: Randolph D. Moss
FILED: 09/22/2015

FINAL JUDGMENT

Plaintiff, the United States of America, having commenced this action by filing its Complaint herein for violation of Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and Plaintiff and Defendant Leucadia National Corporation, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by the Defendant with respect to any such issue:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby Ordered, Adjudged, and Decreed as follows:

I.

The Court has jurisdiction of the subject matter of this action and of the Plaintiff and the Defendant. The Complaint states a claim upon which relief can be granted against the Defendant under Section 7A of the Clayton Act, 15 U.S.C. 18a.

II.

Judgment is hereby entered in this matter in favor of Plaintiff United States of America and against Defendant, and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), the Debt Collection Improvement Act of 1996, Pub. L. 104–134 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 61 FR 54549 (Oct. 21, 1996), and 74 FR 857 (Jan. 9, 2009), Defendant Leucadia National Corporation is hereby ordered to pay a civil penalty in the amount of two hundred forty thousand dollars ($240,000). Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514–2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to: Janie Ingalls, United States Department of Justice, Antitrust Division, Antitrust Documents Group, 450 5th Street NW., Suite 1024, Washington, DC 20530.

Defendant shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of eighteen (18) percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

III.

Each party shall bear its own costs of this action.

IV.

Entry of this Final Judgment is in the public interest.

Dated: _____

United States District Judge

[FR Doc. 2016–09915 Filed 4–27–16; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Abolghasem Rezaei, M.D.; Decision and Order

On November 16, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Abolghasem Rezaei, M.D. (hereinafter, Registrant) of Lawton, Oklahoma. GX 1. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration, pursuant to which he is authorized to dispense controlled substances in schedules IV and V as a practitioner, on the ground that he does ''not have authority to handle controlled substances in the State of Oklahoma, the State in which [he is] registered with the'' Agency. *Id.* at 1.

More specifically, the Show Cause Order alleged that effective May 28, 2013, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (hereinafter, OBNDD) issued a Stipulation and Agreed Order to Registrant, pursuant to which his authority to dispense controlled substances in schedules II and III was suspended ''for two years''; the Order then alleged that his Oklahoma registration ''expired on October 31, 2014,'' and had not been renewed. *Id.*

The Show Cause Order thus alleged that Registrant did ''not have authority in Oklahoma to order, dispense, prescribe or administer any controlled substances,'' and that as a consequence, DEA ''must revoke [his] . . . registrations.'' *Id.* (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)).[1]

Thereafter, a DEA Diversion Investigator (DI) determined that Registrant was no longer practicing at his registered location and was advised by Agents of the OBNDD that the premises appeared vacant. GX 9, at 1. The DI did, however, obtain an address for Registrant in Lawton, Oklahoma, which appeared to be that of a residence, and mailed the Show Cause Order to Registrant by certified mail, return receipt requested to this address. *Id.* On November 30, 2015, the DI received back the signed return-receipt card. *Id.* According to the DI, ''[t]he signature appeared similar to the signature of [Registrant] . . . on other DEA records, which [Registrant] signed.'' *Id.* The DI also emailed the Show Cause Order to Registrant at an email address which Registrant had listed when he applied for registration. *Id.;* GX 2, at 1; GX 8. According to the DI, ''[t]he emailed copy was sent successfully on November 16, 2015, but I never received a response to'' it. *Id.*

On January 5, 2016, the Government submitted its Request for Final Agency Action. Therein, the Government stated that neither Registrant, ''nor anyone representing him[,] has requested a hearing or otherwise corresponded with DEA.'' Req. for Final Agency Action, at 5. In its Request, the Government sought a final order revoking Registrant's DEA registration based on the May 28, 2013 Stipulation and Agreed Order between the OBNDD and Registrant, as well as his act of allowing his state registration to expire on October 31, 2014. *Id.* at 3.

However, on March 21, 2016, the Government filed a further pleading. *See* Request for Dismissal of Order to Show Cause. Therein, the Government noted that effective March 4, 2016, Registrant had entered a subsequent Stipulation and Agreed Order with the OBNDD, pursuant to which the OBNDD agreed to renew his state registration subject to four conditions; the Government provided a copy of the Order with its filing. *Id.* at 2. Those stipulations were that Registrant shall: (1) ''Remain on probation for 18 months beginning on the date of entry of'' the Order; (2) ''be prohibited from ordering, storing, dispensing or administering'' any controlled substances ''during his probation''; (3) ''be prohibited from'' prescribing controlled substances in schedule II or III ''until January 1, 2017''; and (4) run a PMP report of ''his own prescribing . . . at the end of each calendar month'' and submit an ''affidavit that he has reviewed the PMP'' report to the OBNDD and state that it ''accurately reflects the [controlled substance] prescriptions he has authorized.'' *In re Rezaei,* Stipulation and Agreed Order, at 2 (OBNDD, Mar. 4, 2016).

Noting that the sole basis for this proceeding was Registrant's lack of state authority and that the OBNDD's Order has restored his authority to prescribe schedule IV and V controlled substances, the Government no longer seeks the revocation of Registrant's DEA registration.[2] *See* Request for Dismissal of Order to Show Cause, at 3. Notwithstanding that the Government seeks an Order dismissing the Show Cause Order, it also requests an Order restricting Registrant's DEA registration ''to the extent of his controlled substances authorization under Oklahoma state law.'' *Id.*

Based on the record submitted by the Government, I find that Respondent has been served in a constitutionally adequate manner and I find that service was effective no later than November 30, 2015. Based on the Government's further representation that since the date of service, neither Registrant, nor anyone representing him, has either requested a hearing or submitted a written statement in lieu of a hearing, I find that Registrant has waived his right to either request a hearing or to submit a written statement. I therefore issue this Decision and Final Order based solely on the Investigative Record submitted by the Government. I make the following findings.

Findings

Registrant is the holder of DEA Registration #FR4496267, pursuant to which he is authorized to dispense controlled substances in schedules IV and V, at the registered address of Family Practice Clinic & Minor Emergency Medicine, 4645 W. Gore Blvd., Suite 1–2, Lawton, Oklahoma. GX 2. Registrant's registration does not expire until April 30, 2017. *Id.*

Registrant is also the holder of an active medical license issued by the Oklahoma State Board of Medical Licensure and Supervision. According to the Board's Web site, Respondent is now practicing at 2502 West Gore Blvd., Lawton, Oklahoma. *See http://www.okmedicalboard.org/licensee/MD/23655*. He has also recently obtained a new state registration from the OBNDD. However, Registrant's OBNDD registration prohibits him ''from ordering, storing, dispensing, or administering [controlled substances] from any [s]chedule during his probation,'' which runs for 18 months beginning on March 4, 2016, and it further prohibits him ''from authorizing prescriptions for [s]chedule II or [s]chedule III [controlled substances] until January 1, 2017.'' Stipulation and Agreed Order, at 2.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Moreover, Congress has defined ''the term 'practitioner' [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled

[1] The Show Cause Order also notified registrant of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedure for electing either option, and the consequence for failing to elect either option. GX 1, at 2.

[2] The State Order, upon which this proceeding was based, contained numerous stipulated findings that clearly would have supported a *prima facie* case for revocation under the public interest standard of 21 U.S.C. 824(a)(4). These include: (1) That during a November 5, 2012 inspection, an OBNDD Agent and Oklahoma Board of Medical Licensure Investigator had conducted an inspection of Respondent's clinic and found that Demerol and other drugs were kept in a locked desk located in a common area of the clinic and that the key was kept in an unlocked drawer at the receptionist's desk; (2) that ''Respondent was unable to produce any . . . order forms, invoices, or inventories'' for the drugs in the desk; (3) that Respondent stored other controlled substances in an unlocked cabinet in an area of the clinic which all employees, as well as construction workers who were renovating the clinic, had access to; (4) that Respondent also kept controlled substances in a large plastic storage box on a counter below the aforesaid cabinet; (5) that during the inspection, Respondent submitted to a urinalysis and tested positive for oxycodone and that he ''did not have a valid prescription'' for the drug; (6) that Respondent's administration logs showed that ''on at least 3 occasions,'' controlled drugs ''were administered to either [himself] or [his] wife''; (6) that there was no patient file for two patients who were listed in the administration log; (7) that the drug administration log listed 11 entries for Demerol injections for ''skin care'' but did not list a patient name; (8) that Respondent's wife owned a skin care clinic that ''had a separate address from the medical clinic'' and which was unregistered, and that the OBNDD Agent inspected the clinic and found that controlled drugs were stored in an unlocked drawer in a treatment room and Respondent stated that the drugs had been prescribed but returned by his patients; (9) and that controlled drugs that were stored at the skin care clinic were either administered or dispensed to that clinic's ''clients without maintaining an administration log.'' GX 6, at 1–4.

substance in the course of professional practice.'' 21 U.S.C. 802(21). Likewise, the CSA conditions the granting of a practitioner's application for registration on his/her possession of authority to dispense controlled substances under state law. *See* 21 U.S.C. 823(f) (''The Attorney General shall register practitioners . . . to dispense . . . controlled substances . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.''). And of further note, the CSA defines the term ''dispense'' as meaning ''to deliver a controlled substance to an ultimate user . . . *by, or pursuant to the lawful order* of, a practitioner.'' *Id.* § 802(10) (emphasis added).

Thus, the Agency has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012). And because a practitioner's authority under the CSA is based on his/her authority to dispense controlled substances under the laws of the State in which he practices, the Agency has further held that ''to the extent a practitioner is not authorized under state law to dispense certain categories or schedules of controlled substances, he can no longer lawfully dispense them under federal law.'' *Kenneth Harold Bull,* 78 FR 62666, 62672 (2013).

For the same reason, where a state board limits a practitioner's controlled substance authority by prohibiting him from possessing controlled substances or by limiting his authority to prescribing, the practitioner's authority under his DEA registration must also be so limited. *See, e.g., Steven M. Abbadessa,* 74 FR 10077, 10082 (2009) (noting ambiguity in state agency's order as to whether it authorized physician to administer controlled substances at his clinic and requiring him to provide evidence that such activity was authorized by the State prior to doing so); *cf. United States* v. *Moore,* 423 U.S. 122, 140–41 (1975) (''In the case of a physician, [the CSA] contemplates that he is authorized by the State to practice medicine and to dispense drugs in connection with his professional practice. The federal registration . . . extends no further.'').

Accordingly, although the OBNDD's Stipulation and Agreed Order effectively authorizes Registrant to prescribe schedule IV and V controlled substances, it affirmatively prohibits him from ordering, storing (possessing), administering and directly dispensing all controlled substances. While Registrant's DEA registration does not authorize him to handle schedule II and III controlled substances in any manner, his registration currently provides authority for him to order, store, administer and directly dispense schedule IV and V controlled substances. Because Registrant's DEA registration can only grant him authority to the extent that the State has granted him authority, I will order that his registration be restricted to authorize only the prescribing of controlled substances in schedules IV and V.

Also, in the event Registrant intends to seek authority to prescribe schedule II or III controlled substances upon the expiration of the OBNDD's condition, he must apply for a modification of his DEA registration before doing so. *See* 21 CFR 1301.51. So too, in the event Registrant seeks to engage in the ordering, storing, dispensing or administering of any controlled substance upon the expiration of his probation, he must apply for a modification of his DEA registration before doing so. Finally, because the Oklahoma Medical Board's records list Registrant's practice address as being different from his DEA registered address, and it appears that Registrant is no longer practicing at the latter address, he is directed to inquire of the local DEA office as to whether he must obtain a modification of his registration to reflect his new practice address. *See* 21 CFR 1301.12(a) & (b).

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration# FR4496267 issued to Abolghasem Rezaei, M.D., be, and it hereby is, restricted to authorize only the prescribing of controlled substances in schedules IV and V. This Order is effective immediately.

Dated: April 21, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–09973 Filed 4–27–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application To Make and Register a Firearm (ATF Form 1 (5320.1)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** 81 *FR* 8099, on February 17, 2016, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until May 31, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gary Schaible, Industry Liaison Analyst, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), 99 New York Ave. NE., Washington, DC 20226 at email: *nfaombcomments@atf.gov.* Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;