

On May 30, 2012, BSTC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 18, 2012 (77 FR 36292).

The last notification was filed with the Department on October 5, 2012. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 6, 2012 (77 FR 66635).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Mohammed S. Aljanaby, M.D.; Decision and Order

On February 10, 2017, the Assistant Administrator, Division of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Mohammed S. Aljanaby, M.D. (hereinafter, Registrant),¹ of West Hartford, Connecticut. Show Cause Order, at 1. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration, on the ground that he does not have authority to handle controlled substances in Connecticut, the State in which he is registered with DEA. *Id.*

As to the Agency's jurisdiction, the Show Cause Order alleged that Registrant possesses a practitioner's registration for schedules II through V, and that his registered address is 74 Park Road, West Hartford, Connecticut. *Id.* The Order further alleged that Registrant's registration "expires by its own terms on June 30, 2017." *Id.*

As to the substantive ground for the proposed action, the Show Cause Order alleged that "[o]n November 15, 2017, the State of Connecticut Medical Examining Board revoked [his] license to practice medicine due to [his] (1) inappropriate physical and/or sexual conduct with one or more female patients; and (2) false statements on [his] Connecticut medical license renewal application." *Id.* (emphasis added). The Show Cause Order also alleged that the Board's "order remains in effect." *Id.*² The Order further

asserted that Registrant's registration was subject to revocation based on his lack of state authority. *Id.* at 2.

The Government attempted to serve the Order to Show Cause on Registrant through a variety of ways. These included: (1) Mailing by first class mail addressed to him at his registered address; (2) a Diversion Investigator (DI) going to his registered address, where he was told that Registrant "had not worked there for a very long time" and his current location was unknown; (3) the DI going to Registrant's purported residence on Laird Drive in Bristol, Connecticut where no one answered the door;³ (4) mailing the Show Cause Order by Certified Mail, Return Receipt Requested, addressed to him at his registered address; (5) mailing the Show Cause Order by Certified Mail, Return Receipt Requested, to his purported residence address; (6) mailing the Show Cause Order by Certified Mail, Return Receipt Requested, to a second property in Bristol, Connecticut, which is purportedly owned by Registrant; (7) mailing the Show Cause Order by Certified Mail, Return Receipt Requested, to an address in New York State where he receives his property tax bill from the Town of Bristol; and (8) email sent to an address obtained from a public access database maintained by Thomson Reuters, which also corresponds to the email address Registrant provided to the Connecticut Board. GX 3, at 1–2 (DI Declaration). The first mailing was accomplished on February 10, 2017; the other attempts at service were made on February 22–23, 2017. *Id.*; see also GX 4 (Declaration of Chief Counsel Analyst).

With the exception of the mailing to his registered address (where he no longer worked), each of the other mailings was returned to the Government and marked as undelivered. GX 3, at 2. The Government represents, however, that the attempt to email the Show Cause Order did not generate an error or undeliverable message.

Of note, several courts have held that the emailing of process can, depending on the facts and circumstances, satisfy due process, especially where service by conventional means is impracticable because a person secludes himself. See

and the consequence of failing to elect either option. Show Cause Order, at 2. The Order also notified Registrant of his right to submit a Corrective Action Plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

³ According to the Connecticut Medical Examining Board's Order, when the Board attempted to served Registrant at this address its mailing was returned and marked: "Return to sender, No Such Street, Unable to Forward." GX 3, Appendix C, at 3.

Rio Properties, Inc. v. Rio Int'l Interlink, 284 F.3d 1007, 1017–18 (9th Cir. 2002); *Snyder, et al. v. Alternate Energy Inc.*, 857 N.Y.S. 2d 442, 447–449 (N.Y. Civ. Ct. 2008); *In re International Telemedia Associates, Inc.*, 245 B.R. 713, 721–22 (Bankr. N.D. Ga. 2000); see also *Richard C. Quigley*, 79 FR 50945 (2014); *Emilio Luna*, 77 FR 4829, 4830 (2012). Given the multiple attempts by the Government to serve the Show Cause Order by conventional means, including by mailing it to the address where he receives his property tax bills, I conclude that the Government's use of email satisfies its obligation with respect to service of the Show Cause Order. See, e.g., *Jones v. Flowers*, 547 U.S. 220, 226 (2006) (due process does not require actual notice but only "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Id.* (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950))).

On May 8, 2017, the Government submitted a Request for Final Agency Action. Therein, it represents that Registrant did not request a hearing or submit a written statement while waiving his right to a hearing. The Government thus seeks a final order revoking Registrant's registration.

I deny the Government's Request for an Order of Revocation. As support for the proposed revocation, the Government submitted a copy of the Board's Order revoking Registrant's state license, which states that it was actually issued on the "15th day of November, 2016." GX 3, Appendix C, at 9. However, as noted above, the Show Cause Order alleges that the Board revoked his state license "[o]n November 15, 2017." See GX 2, at 1. I need not decide, however, whether this typographical error renders the Show Cause Order defective as this case is now moot.⁴

As noted above, the Show Cause Order alleges that Registrant's registration was due to expire on June 30, 2017. *Id.* According to the registration records of the Agency of

⁴ Had Registrant requested a hearing, the Government could have corrected its error as to the date of the Board's Order by motion. And by offering the Board's Order to support a motion for summary disposition, the Government would have refuted any claim of prejudice. Cf. *United States v. Cina*, 699 F.2d 853, 857 (7th Cir. 1983) (holding in criminal prosecution that trial court's amendment of the alleged commencement date of conspiracy charge by two years did not "affect[] a 'material element' of the . . . charge, causing prejudice to the defendant"). Furthermore, as long as the Board's Order was still in effect, the date of its Order would not be material.

¹ Notwithstanding that Dr. Aljanaby is now an ex-registrant, he is referred to as Registrant throughout this Decision.

² The Show Cause Order also notified Registrant of his right to request a hearing or to submit a written statement while waiving his right to a hearing, the procedure for electing either option,

which I take official notice,⁵ Registrant's registration did, in fact, expire on June 30, 2017. Moreover, Registrant has not filed a renewal application, whether timely or not.

It is well settled that "[i]f a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke." *Ronald J. Riegel*, 63 FR 67132, 67133 (1998); *see also William W. Nucklos*, 73 FR 34330 (2008). Furthermore, because Registrant did not file a renewal application, there is no application to act upon. *See Nucklos*, 73 FR at 34330. Accordingly, because there is neither a registration, nor an application, to act upon, I hold that this case is now moot.

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 the Order to Show Cause issued to Mohammed S. Aljanaby, M.D., be, and it hereby is, dismissed.

Dated: July 14, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017-15494 Filed 7-24-17; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Third Modification to Consent Decree Under the Clean Air Act

On July 19, 2017, the United States lodged a proposed Third Modification to the Consent Decree ("Third Modification") with the United States District Court for the Western District of Pennsylvania in the lawsuit entitled *United States, et al. v. Essroc Cement Corp.*, Civil No. 2:11-cv-01650.

The Court approved the original Consent Decree in 2012, resolving claims under the Clean Air Act against six Essroc cement facilities in three states and Puerto Rico. The proposed Third Modification affects only Defendant's Logansport facility in Logansport, Indiana. The proposed Third Modification reworks requirements for controlling emissions of nitrogen oxides, known as NO_x, at Logansport. Under the proposed agreement, Essroc will no longer be required to install a NO_x control technology known as SNCR (which stands for selective non-catalytic reduction) at Logansport Kiln 2. Instead, Essroc will be required to install water injection technology, another NO_x

control technology, at both Logansport kilns. In addition, the proposed agreement reduces the allowable NO_x emissions rate at both kilns. Finally, the proposed Third Modification notes that Essroc is now known as Lehigh Hanson ECC.

The publication of this notice opens a period for public comment on the Third Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Essroc Cement Corp.*, D.J. Ref. No. 90-5-2-1-09608. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Third Modification may be examined and downloaded at this Justice Department Web site: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Third Modification to Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$3.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a complete copy of the original Consent Decree, the prior approved modification, and the proposed Third Modification (without exhibits and signature pages), the cost is \$20.00.

Randall M. Stone,

*Acting Assistant Section Chief,
Environmental Enforcement Section,
Environment and Natural Resources Division.*

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DEPARTMENT OF LABOR

Employment and Training Administration

Nominations for the Task Force on Apprenticeship Expansion

AGENCY: Employment and Training Administration, Labor.

ACTION: Solicitation of nominations to serve on the Task Force on Apprenticeship Expansion.

SUMMARY: The Secretary of Labor invites interested persons to submit nominations for individuals to serve on the Task Force on Apprenticeship Expansion (hereinafter "the Task Force" or "the panel"), a non-discretionary federal advisory committee authorized pursuant to section 8 of Executive Order 13801, entitled "Expanding Apprenticeships in America" (hereinafter "the Executive Order"), which was issued on June 15, 2017 (82 FR 28229) and which directed the Secretary of Labor to establish and chair such a panel in the Department of Labor.

DATES: If transmitted by mail, nominations for individuals to serve on the Task Force must be postmarked by August 8, 2017. Alternatively, if Task Force nominations are submitted electronically or by hand delivery, such nominations must be received by August 8, 2017.

ADDRESSES: Interested persons may submit Task Force nominations, including relevant attachments, through any of the following methods:

- *Electronically:* Send to: *Apprenticeshiptaskforce@dol.gov* (and please specify in the email subject line, "Nominations for Task Force on Apprenticeship Expansion").
- *Mail, express delivery, hand delivery, messenger service, or courier service:* Submit one copy of the documents listed above to the following address: U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship, Task Force on Apprenticeship Expansion, Room C-5321, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: For any questions concerning the Task Force nomination process, please contact Ms. Natalie S. Linton, Program Analyst, Employment and Training Administration, Office of Apprenticeship, at *Linton.Natalie.S.@dol.gov*, telephone (202) 693-3592 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Task Force is being established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The Task Force is charged with the mission of identifying strategies and proposals to promote apprenticeships, especially in sectors where apprenticeship programs are insufficient. Upon completion of this assignment, the Task Force shall

⁵ See 5 U.S.C. 556(e); 21 CFR 1316.59(e).