

The Deputy Administrator's review of the investigative file reveals that the Respondent is a small candy distributor located in Brooklyn, New York. The Respondent is owned by Fouad Twaiti, and his brother, Ali Twaiti serves as its manager. As part of a pre-registration investigation, DEA Division Investigators met with Fouad and Ali Twaiti on May 12, 2000. Fouad Twaiti informed investigators that his firm had been in operation since early 2000, and further added that his firm had been approached by some of its customers who ask for list I chemical products. Upon request, Fouad Twaiti furnished DEA investigators with a customer list consisting of four business establishments.

DEA investigators subsequently interviewed each of the owners and/or managers comprising the customer list provided by Fouad Twaiti. Each of the listed establishments denied requesting list I chemical products from Fouad Twaiti, and three of the establishments denied engaging in the sale of any pseudoephedrine products.

The investigative file further reveals that as part of its ongoing investigation of the Respondent, DEA investigators obtained bank records of an individual hereinafter referred to as "M.A." In or around March 2000, M.A. was criminally charged in Newark, New Jersey, with unlawful distribution of a listed chemical, and in January 2001, M.A. purportedly signed a plea agreement on the charge. According to DEA's review of bank records, Ali Twaiti engaged in a transaction with MA for \$54,000 on December 20, 1999. When M.A. was asked by law enforcement officials about the above transaction with Ali Twaiti, M.A. replied, "that was for a candy deal."

Pursuant to 21 U.S.C. 823(h), the Deputy Administrator may deny an application for DEA Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest as determined under that section. Section 823(h) requires the following factors be considered in determining the public interest:

(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance with applicable Federal, State, and local law;

(3) Any prior conviction record under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience in the manufacture and distribution of chemicals; and

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

As with the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or combination of factors of factors, and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See, e.g.* Energy Outlet, 64 FR 14269 (1999). *See also* Henry J. Schwartz, Jr., M.D. 54 FR 16422 (1989).

The Deputy Administrator finds factors one, four, and five relevant to the Respondent's pending application.

With respect to factor one, maintenance of effective controls against diversion, the Deputy Administrator finds evidence in the investigative file that the Respondent provided customer information to DEA investigators that later proved to be false. With the ever-present problem of listed chemical diversion, it is incumbent upon a potential registrant to provide reliable and accurate information regarding the immediate destination of these products, and thereby, reduce the opportunity for diversion. The Deputy Administrator finds the uncertainty surrounding Respondent's customers is relevant under factor one and supports denial of Respondent's pending application for DEA registration.

Regarding factor four, past experience in the manufacture and distribution of chemicals, the Deputy Administrator can find no evidence in the investigative file that Respondent, a small candy distributor, has any previous experience related to handling or distributing listed chemicals. This factor also weighs against the granting of Respondent's pending application. *See*, CHM Wholesale Co., 67 FR 9985 (2002).

With respect to factor five, such other factors relevant to and consistent with the public safety, the Deputy Administrator finds relevant that Respondent provided false information to DEA investigators when it provided a list of its purported customers. The Deputy Administrator finds this lack of candor makes questionable the Respondent and its owners' commitment to the DEA statutory and regulatory requirements designed to protect the public from the diversion of listed chemicals. *Seaside Pharmaceutical Co.*, 67 FR 12580 (2002); *Aseel, Incorporated, Wholesale Division*, 66 FR 35459 (2001); *Terrence E. Murphy, M.D.*, 61 FR 2841 (1996).

On a related note, it is also unclear whether Fouad Twaiti provided a false statement to DEA investigators when he stated that the firm had been approached by customers requesting listed chemical products. Even if the statement regarding customer inquiries was true, there is insufficient information before the Deputy Administrator regarding the type of customers that requested these products, their identity and location, and whether they had a legitimate business interest in seeking the purchase of listed chemical products.

The Deputy Administrator also finds relevant under factor five, the fact that Ali Twaiti engaged in a significant financial transaction with a purported diverter of list I chemicals. The apparent business connection between Respondent's ownership and an individual purportedly convicted of unlawful distribution of list I chemicals is troubling when one considers that the Respondent seeks a DEA Certificate of Registration to distribute these same products.

The Deputy Administrator concludes that the Respondent cannot be entrusted with the responsibilities of a DEA registration. In light of the above, the Deputy Administrator further concludes that it would be inconsistent with the public interest to grant the application of the Respondent.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, previously submitted by Island Wholesale, Incorporated be, and it hereby is, denied. This order is effective May 9, 2003.

Dated: March 26, 2003.

**John B. Brown, III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Manufacturer of Controlled Substances; Notice of Registration; Correction—Penick Corp.

On March 13, 2003, a Notice of Registration was published in the **Federal Register** (68 FR 12104) for Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, which was wrongly entitled Importer of Controlled Substances. The Notice

should have been entitled Manufacturer of Controlled Substances. All other information contained therein was correctly stated.

Dated: March 21, 2003.

**Laura M. Nagel,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

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**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

**Manufacturer of Controlled Substances; Notice of Application**

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 29, 2002, Siegfried (USA) Inc., made application by renewal to the Drug Enforcement Administration for registration as a bulk manufacturer of the basic classes of controlled substance listed below:

Drug	Schedule
Amphetamine (1100) .....	II
Methylphenidate (1724) .....	II
Amobarbital (2125) .....	II
Pentobarbital (2270) .....	II
Secobarbital (2315) .....	II
Glutethimide (2550) .....	II
Codeine (9050) .....	II
Hydrocodone (9193) .....	II
Morphine (9300) .....	II
Oxycodone (9143) .....	II
Methadone (9250) .....	II
Methadone-intermediate (9254) ...	II
Dextropropoxyphene, bulk (non dosage forms) (9273).	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 60 days from publication.

Dated: March 21, 2003.

**Laura M. Nagel,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 03-8582 Filed 4-8-03; 8:45 am]

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**DEPARTMENT OF JUSTICE**

**Office of Justice Programs**

**Agency Information Collection Activities: Proposed Collection; Comments Requested**

**ACTION:** 60-Day Emergency Notice of Information Collection Under Review: New Collection; Project Safe Neighborhoods Semi-Annual Researcher Reporting Form.

The Department of Justice; Office of Justice Programs, has submitted the following information request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by April 18, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Office (202) 395-6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Robyn Thiemann, Counsel, Domestic Security Section, Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 6500, Washington, DC 20530, or facsimile (202) 305-4901.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

- (1) 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;
- (2) 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;
- (3) Enhance the quality, utility and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information**

(1) *Type of information collection:* New Collection.

(2) *The title of the form/collection:* Project Safe Neighborhoods Semi-Annual Researcher Reporting Form.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form number: none. Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Other: Business or other for-profit; not-for-profit institutions; Federal Governments; and state, local, or tribal government. The data, which will be submitted via the Semi-Annual Researcher Reporting Form in a timely fashion by the research for each of the 94 judicial districts, is essential to understanding gun violence at a national level. By collecting both outcome and intervention measures, the Department can identify programs that demonstrate success in reducing targeted gun crime. This information is essential to evaluating the program and providing feedback at the national level that can inform management decisions. Additionally, this data will assist the Department in discharging its obligations under the Government Performance and Results Act (GPRA).

(5) *An estimate of the number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 93 respondents will complete the form in approximately one hour twice a year.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this application is 186 hours.

If additional information is required, please contact Brenda Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

Dated: April 3, 2003.

**Brenda Dyer,**

*Department Deputy Clearance Officer, United States Department of Justice.*

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