

at least five occasions they distributed the List I chemical pseudoephedrine knowing or having reasonable cause to believe that said chemical would be diverted to the illicit manufacture of a controlled substance.

Regarding factor two, the applicant's compliance with applicable law, the Administrator finds that MSM through its owners/operators the Kims significantly violated applicable law by selling the List I chemical pseudoephedrine in quantities and under circumstances sufficient to engender a reasonable belief that the chemical would be diverted to the manufacture of a controlled substance. Despite having been extensively briefed twice by DEA personnel in the Fall of 1998 and in March of 1999 concerning the risks of diversion of listed chemical products, including being served with official DEA written notifications and guidelines concerning the obligations and responsibilities of listed chemical registrants, the Kims subsequently significantly violated applicable law. During a two-week period from December 29, 2000, to January 11, 2001, the Kims sold an undercover confidential source at least 5,000 dosage units of pseudoephedrine.

During the next four weeks, from January 18, 2001, to February 15, 2001, the Kims sold an undercover detective (introduced to the Kims by the undercover confidential source) an additional 6,500 dosage units of pseudoephedrine. The Administrator finds that, given the Kim's obvious knowledge of the dangers of diversion, as directly transmitted to them orally and in writing by DEA, the sale of these quantities of pseudoephedrine to the same individuals within such a relatively short time frame, certainly gave rise to a reasonable belief, if not knowledge, that the pseudoephedrine would be diverted to the manufacture of a controlled substance, in violation of 21 U.S.C. 841(d)(2) and 841(g)(1). (Note: subparagraphs (d) and (g) of 841 have been redesignated as (c) and (f)).

Regarding factor three, the investigative file reveals that Hy Suk Kim was arrested April 29, 1998 for Washington State violations involving possession of drug paraphernalia and a drug violation.

Regarding factor four, the applicant's past experience in the distribution of chemicals, the DEA investigation revealed that MSM and the Kims actively participated in distributing the List I chemical pseudoephedrine knowing or having reasonable cause to believe it would be diverted to the manufacture of a controlled substance, as set forth in factor two.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that on two separate occasions, the Kims stated to DEA personnel that MSM only sold List I chemical products in quantities not exceeding two bottles per customer. The DEA investigation revealed that, on at least five occasions over a six-week period, the Kims sold in quantities of 10, 20, 20, 25, and 35 bottles to an undercover confidential source and an undercover detective. The Kims additionally stated to the undercover detective that they were willing to sell in half-case quantities (72 bottles). The Administrator finds this lack of candor, taken together with MSM's and the Kim's demonstrated cavalier disregard of the law and responsibilities concerning the distribution of listed chemicals, makes questionable MSM's and the Kim's commitment to the DEA regulatory requirements designed to protect the public from the diversion of controlled substances and listed chemicals. Aseel Incorporated, Wholesale Division, 66 FR 35,459 (2001); Terrence E. Murphy, 61 FR 2,841 (1996).

Therefore, for the above-stated reasons, the Administrator concludes that it would be inconsistent with the public interest to grant the application of MSM.

Accordingly, the 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 application for a DEA Certificate of Registration submitted by Market Street Market be denied. This order is effective April 11, 2002.

Dated: February 22, 2002.

Asa Hutchinson,
Administrator.

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DEPARTMENT OF JUSTICE

Parole Commission

[5 U.S.C. Section 552b]

Public Announcement; Pursuant To The Government In the Sunshine Act (Public Law 94-409)

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 9:30 a.m. Thursday, March 14, 2002.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of Previous Commission Meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Adoption of retroactive application of 28 CFR 2.80.
4. Adoption of informal policy regarding participation in employment training.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492-5962.

Dated: March 7, 2002.

Michael Stover,
Deputy General Counsel, U.S. Parole Commission.

[FR Doc. 02-5959 Filed 3-8-02; 11:32 am]

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DEPARTMENT OF JUSTICE

Parole Commission

[5 U.S.C. Section 552b]

Public Announcement; Pursuant To The Government In the Sunshine Act (Public Law 94-409)

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: 10:30 a.m., Thursday, March 14, 2002.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commission involving approximately four cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole and are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492-5962.

Dated: March 7, 2002.

Michael Stover,
Deputy General Counsel, U.S. Parole Commission.

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