

has thus failed to offer any evidence to rebut the Government's showing that he has committed acts which render granting him a registration inconsistent with the public interest.<sup>32</sup> See *Medicine Shoppe-Jonesborough*, 73 FR 364, 387 (2008) ("Where the Government has made out its *prima facie* case, the burden shifts to the Respondent to show why [his] continued registration would nonetheless be consistent with the public interest."). Accordingly, these violations of the CSA and DEA regulations provide a further basis to deny Respondent's application.

### Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f), as well as by 28 CFR 0.100(b) and 0.104, I hereby order that the application of Alvin Darby, M.D., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This order is effective immediately.

Dated: April 16, 2010.

**Michele M. Leonhart,**  
Deputy Administrator.

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**BILLING CODE 4410-09-P**

<sup>32</sup> It is acknowledged that Respondent holds a valid state license (factor one) and has not been convicted of an offense related to the dispensing of controlled substances (factor three). However, neither of these factors is dispositive. See *Edmund Chein*, 72 FR 6580, 6590 (2007), *aff'd Chein v. DEA*, 533 F.3d 828 (DC Cir. 2008) (The authority to decide whether to grant an application for a DEA registration has been entrusted to the Attorney General and "has been delegated solely to the officials of this Agency.") See also *id.* at 6593 n.22 (absence of criminal convictions not dispositive in public interest inquiry).

I further note the DI's testimony that Respondent violated Federal law because he wrote prescriptions at his Mississippi office and did not have a registration in this State. However, the Government put forward no evidence that identifies specific prescriptions that Respondent issued after the expiration of his Mississippi registration. Moreover, in its brief, the Government does not rely on this conduct. Thus, I do not consider the allegation.

The Government also argues that Respondent's conviction for possession of cocaine can be considered under factor three. However, the conviction was not for an offense related to the manufacture, distribution, or dispensing of controlled substances and is thus not properly considered under factor three. However, as the ALJ reasoned, consistent with Agency precedent, the conviction can be considered under factor five as such other conduct which may threaten public health and safety. See ALJ at 34-35. While there is evidence that Respondent underwent treatment, and the Government does not argue that Respondent has a continuing problem with drug abuse, when coupled with the other violations proved on this record, it buttresses the conclusion that Respondent is unwilling to conform to the law and that he cannot be entrusted with a new registration.

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### [OJP (OJP) Docket No. 1519]

#### Hearings of the Review Panel on Prison Rape

**AGENCY:** Office of Justice Programs, Justice.

**ACTION:** Notice of hearing.

**SUMMARY:** The Office of Justice Programs (OJP) announces that the Review Panel on Prison Rape (Panel) will hold hearings in Washington, DC on June 3-4, 2010. The hearing times and location are noted below. The purpose of the hearings is to assist the Bureau of Justice Statistics (BJS) in identifying common characteristics of victims and perpetrators of sexual victimization in juvenile facilities, and the common characteristics of juvenile facilities with the highest and lowest incidence of rape, respectively, based on an anonymous survey by the BJS of youth in a representative sample of juvenile facilities. On January 7, 2010, the BJS issued the report *Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-09*. The report provides a listing of juvenile facilities grouped according to the prevalence of reported sexual victimization, and formed the basis of the Panel's decision about which facilities would be the subject of testimony.

**DATES:** The hearing schedule is as follows:

1. *Thursday, June 3, 2010, 10 a.m. to 5:45 p.m.:* Bureau of Justice Statistics; Fort Belfontaine, Missouri, Campus—facility with a low prevalence of sexual victimization; Rhode Island Training School—facility with a low prevalence of sexual victimization; and Pendleton, Indiana, Juvenile Correctional Facility—facility with a high prevalence of sexual victimization.

2. *Friday, June 4, 2010, 8:30 a.m. to 1 p.m.:* Woodland Hills, Tennessee, Youth Development Center—facility with a high prevalence of sexual victimization; and Corsicana, Texas, Residential Treatment Facility—facility with a high prevalence of sexual victimization.

**ADDRESSES:** The hearings will take place at the Office of Justice Programs Building, Main Conference Room, Third Floor, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

**FOR FURTHER INFORMATION CONTACT:** Christopher Zubowicz, Designated Federal Official, OJP, [Christopher.Zubowicz@usdoj.gov](mailto:Christopher.Zubowicz@usdoj.gov), (202)

307-0690 [Note: This is not a toll-free number.]

**SUPPLEMENTARY INFORMATION:** The Panel, which was established pursuant to the Prison Rape Elimination Act of 2003, Public Law 108-79, 117 Stat. 972 (codified as amended at 42 U.S.C. 15601-15609 (2006)), will hold its next hearings to carry out the review functions specified at 42 U.S.C. 15603(b)(3)(A). Testimony from the hearings will assist the Panel in carrying out its statutory obligations. The witness list is subject to amendment; please refer to the Review Panel on Prison Rape Web site at <http://www.ojp.usdoj.gov/reviewpanel/reviewpanel.htm> for any updates regarding the hearing schedule. Space is limited at the hearing location. Special needs requests should be made to Christopher Zubowicz, Designated Federal Official, OJP, [Christopher.Zubowicz@usdoj.gov](mailto:Christopher.Zubowicz@usdoj.gov) or (202) 307-0690, at least one week before the hearings.

**Michael Alston,**

Office of Justice Programs.

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**BILLING CODE 4410-18-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—LiMo Foundation

Notice is hereby given that, on March 12, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 8 4301 *et seq.* ("the Act"), LiMo Foundation ("LiMo") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Else Limited, Ra'anana, ISRAEL; Teleca Germany GmbH, Neuremberg, GERMANY; Mobi TV, and Emeryville, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of this group research project. Membership in this group research project remains open, and LiMo intends to file additional written notifications disclosing all changes in membership.

On March 1, 2007, LiMo filed its original notification pursuant to Section