period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective September 26, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by September 6, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by September 16, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Nancy S. Fleischman, 1050 Connecticut Avenue NW., Suite 740, Washington, DC 20036.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: August 13, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-20204 Filed 8-22-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment

Notice is hereby given that ASARCO Incorporated ("ASARCO") has filed with the United States District Court for the Southern District of New York a motion to terminate the Final Judgment in *United States* v. American Smelting and Refining Company, Civil No. 88-249; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the Judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The complaint in this case (filed on October 9, 1953) alleged American Smelting and Refining Company ("ASR") and St. Joseph Lead Company ("St. Joe"), the two largest U.S. producers of primary lead, had combined and conspired in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. § 1 and 2, to restrain and monopolize, and had attempted to monopolize, the mining, smelting, refining and sale of primary lead in the United States. ASR and St. Joe allegedly agreed to, and did fix prices and limit production of primary lead and took joint action to fix and stabilize world prices and limit U.S. imports of lead.

The Final Judgment entered upon consent on October 11, 1957 settled the case as to ASR. The Judgment enjoins any agreement, plan or program to fix prices, price differentials, price discounts or others terms and conditions for the sale of primary lead in the United States. ASR is specifically enjoined from exchanging information or consulting with St. Joseph Lead Company with respect to any future change in the price for primary lead by either company. ASR is prohibited from agreeing to limit, reduce or restrict the mining, smelting, refining or selling of primary lead in the United States. The Judgment enjoins ASR from agreeing, except with a foreign government, to restrict U.S. imports or exports of lead ore, lead concentrate, lead bullion or primary lead. ASR is prohibited from agreeing to fix prices for primary lead in the foreign or domestic commerce of the United States provided that the provision does not apply to any act in a foreign country required by the government thereof.

The Judgment required termination of a tolling contract with St. Joe and regulates the terms and condition of any future contract with St. Joe.

The Judgment prohibits ASR from acquiring any lead smelter or lead refinery existing as of the date of the Judgment. ASR is enjoined from entering into any tolling contract that would tend substantially to lead to the permanent cessation of production by a smelter or refinery that previously handled the business.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the Judgment would serve the public interest. Copies of the complaint and Final Judgment, ASARCO's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 (telephone 202-633-2481), and at the Office of the Clerk of the United States District Court for the Southern District of New York, Federal Courthouse, Foley Square, New York, New York. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Judgment to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to Anthony V. Nanni, Chief, Trial Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone: 202-633-2541).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-20201 Filed 8-22-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 85-8]

Avner Kauffman, M.D.; Revocation of Registration and Denial of Application

On January 22, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an order to show cause to Avener Kauffman, MD. (Respondent) 4440 West Lincoln Highway, Matteson, Illinois 60443 seeking to revoke DEA Certificate of Registration AK2002664, and to deny any pending applications for registration under 21 U.S.C. 823(f). The statutory predicate under 21 U.S.C. 824(a)(3) for the order to show cause was the summary suspension by the Illinois Department of Registration and Education on March 23, 1984, of the controlled substances license previously issued to Respondent by the Department. Respondent, through counsel, requested a hearing on the issues raised by the order to show cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young.

The Matter was continued for 60 days, until May, 1985, pending possible action by the Illinois authorities. The Illinois authorities took no further action, leaving Respondent without authority to possess, prescribe, dispense or otherwise handle controlled substances in Illinois. On May 29, 1985, Government counsel moved for summary disposition of the Matter based on Respondent's lack of state authority to handle controlled substances. Counsel for Respondent replied to the motion for summary disposition by stating that he and the Illinois authorities had negotiated an order providing for partial

reinstatement of Dr. Kauffman's controlled substances privileges.

Judge Young entered an opinion and recommended decision on June 17, 1985. He stated that this agency has consistently held that if a registrant or applicant is without authority to handle controlled substances under the laws of the state in which he practices, or proposes to practice, DEA is without statutory authority to issue or maintain a registration. In such cases, a motion for summary disposition is properly entertained and granted. See *David Sachs, M.D.*, Dk. 77-2, 42 FR 29112 (1977); *James Waymon Mitchell, M.D.*, DK. 79-16, 44 FR 11873 (1978); *Floyd A. Santner, M.D.*, Dk. 79-23, 47 FR 51831 (1982). The Administrative Law Judge also noted that there is no issue of fact presented, and that no evidentiary hearing is necessary in the Matter, citing *United States* v. *Consolidated Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971).

The Administrator agrees with this interpretation of section 824(a)(3). DEA has consistently maintained that lack of state authority to handle controlled substances precludes DEA from registering a practitioner. Respondent lacks authority under state law to handle controlled substances in Illinois, the state in which he wishes to remain registered. Therefore, DEA cannot register Respondent in Illinois. The Administrator also agrees that there is no material issue of fact, and therefore there is no need for a plenary hearing.

Accordingly, pursuant to the authority vested in the Attorney General by 21 U.S.C. 824(a) and redelegated by 28 CFR 0.100, the Administrator hereby revokes Certificate of Registration AK2002664, and denies any pending application, for reason that Avner Kauffman, M.D. is without authority to possess, prescribe, dispense, administer or otherwise handle controlled substances in Illinois. The revocation and denial will be effective September 23, 1985.

Dated: August 19, 1985.

John C. Lawn,

Administrator.

[FR Doc. 85-20236 Filed 8-22-85; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 84-39]

Paul H. Norton, D.P.M.; Revocation of Registration and Denial of Application

On August 24, 1984, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an order to show cause to Paul H. Norton, D.P.M., the Respondent in this Matter. The order sought to revoke DEA Certificate of Registration AN2010217 and to deny any pending applications for registration under 21 U.S.C. 823(f). The statutory predicate for the order under 21 U.S.C. 824(a)(2) was the conviction of Dr. Norton on November 28, 1983, in the Court of Common Pleas, Cuyahoga County, Ohio of 11 counts of making, uttering and selling false prescriptions for Percodan, a Schedule II drug, and Valium, a Schedule IV drug, in violation of Ohio Drug Law R.C. 2925.23. These are felonies relating to controlled substances.

A previous order to show cause was sent by registered mail on June 22, 1984, to 16102 Chagrin Boulevard, Shaker Heights, Ohio, the last address at which Dr. Norton was registered. The order was returned as unclaimed. The August 24, 1984 order was sent registered mail to Respondent at the Correctional Pre-Release Center in Orient, Ohio, where Respondent was incarcerated. Respondent, proceeding *pro se*, replied to the order and requested that the Matter be continued until his release date of March 11, 1985. The Matter was placed on the docket of Administrative Law Judge Francis L. Young, who continued the Matter until his release date of March 11, 1985. The Matter was placed on the docket of Administrative Law Judge Francis L. Young, who continued the Matter until March 11, 1985, as requested by Respondent. Judge Young required Respondent to inform the office of the Administrative Law Judge within 10 days of his release.

On April 25, 1985, Judge Young ordered the parties to file prehearing statements stating issues and identifying evidence for presentation at a hearing. The Government complied with the order but Respondent filed nothing in response even after the Administrative Law Judge extended the date for filing until July 1, 1985. Respondent did not inform the office of the Administrative Law Judge of his release date or of his new address, which the DEA Cleveland Resident Office learned was 10526 Glenville, Cleveland, Ohio.

Government counsel filed a motion for termination of proceedings on July 19, 1985. Judge Young granted the motion and terminated the proceedings before him on August 1, 1985. In his memorandum and order terminating proceedings, the Administrative Law Judge noted that since Respondent has failed to file a prehearing statement it appears that he does not intend to raise any issues or to present any evidence at a hearing if one were to be held. Judge Young found, as does the Administrator, that Respondent has waived his opportunity for a hearing. Accordingly, the Administrator bases this final order on the investigative record as it appears. 21 CFR 1301.54(d); *Marshall D. Nickerson, M.D.*, Dk. 80-19, 45 FR 72310 (1980); *Elvin Edward Walker, D.O.*, Dk. 84-47, 50 FR 3848 (1985) citing *Costle v. Pacific Legal Foundation*, 445 U.S. 198 (1980); *National Independent Coal Operators' Assoc.* v. *Kleppe*, 423 U.S. 388 (1976); *United States* v. *Consolidation Mines and Smelting Co., Ltd.*, 455 F.2d 432, 453 (9th Cir. 1971).

Upon examination of the investigative record, the Administrator finds that Respondent was a podiatrist practicing in Cleveland, Ohio. In 1983, Medical Mutual of Cleveland, Inc. (Blue Cross/Blue Shield) began an investigation of Respondent's excessive billing for medical procedures and controlled substances. A Medical Mutual investigator went to Respondent's office on March 17, 1983, and obtained a prescription for Percodan without showing any foot ailment that would require a potent Schedule II narcotic. Six times during the spring and early summer of 1983 the investigator went to Respondent's office and obtained prescriptions for controlled substances. The investigator manifested no podiatric complaint yet Respondent billed Medical Mutual each time for "bone surgery" or "ingrown toenail" in amounts from $150 to $300. Several times the investigator told Respondent that his "friends" wanted to "party" with the drugs they obtained via Respondent's prescriptions. Respondent once told the investigator that the drugs would make his "feet feel happy." Whenever the investigator brought in a new "patient," Respondent would "reward" him with another prescription.

Respondent's transactions with the Medical Mutual investigator were not unique. The Cuyahoga County Sheriff's Department noticed that Respondent's prescriptions were on the street in Cleveland in early 1983. Prescriptions written by Respondent were found in pharmacies throughout metropolitan Cleveland. Most of these prescriptions were for Percodan. They were apparently facially valid, being written for 15 to 20 dosage units. However, they were usually written in one name and were found in batches totalling about 250 dosage units.

It is clear to the Administrator that Dr. Norton is unable to meet the obligations of responsibly handling controlled substances. A practitioner who writes a prescription for Percodan, telling an investigator that Percodan will make his feet feel happy, and then fraudulently bills for this "service," is unfit to possess DEA registration. Respondent

has submitted no evidence in explanation or mitigation. Given the facts in this case, the Administrator has no choice but to revoke the registration previously issued to Dr. Norton.

Accordingly, pursuant to the authority vested in the Attorney General by 21 U.S.C. 824(a), and redelegated by 28 CFR 0.100, the Administrator hereby revokes Certificate of Registration AN2010217, and denies any pending applications for registration, for reason that Paul H. Norton, D.P.M., was convicted of felonies relating to controlled substances, such revocation and denial to be effective September 23, 1985.

Dated: August 19, 1985.

John C. Lawn,

Administrator.

[FR Doc. 85-20223 Filed 8-22-85; 8:45 am]

BILLING CODE 4410-09-M

Roger Lee Palmer, D.M.D.; Denial of Application

On June 17, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an order to show cause to Roger Lee Palmer, D.M.D., (Respondent) 1871 High Street, Lakeport, California 95453. The order to show cause sought to deny the application for registration Respondent executed on February 15, 1985. The statutory predicate under 21 U.S.C. 824(a)(3) for the order to show cause was Respondent's conviction on December 4, 1981, in the United States District Court for the Northern District of California of obtaining a controlled substance by misrepresentation, in violation of 21 U.S.C. 843(a)(1), a felony relating to controlled substances.

Respondent explicitly waived his opportunity for a hearing in a letter dated July 15, 1985. He submitted various letters and petitions in support of his application, which the Administrator has considered in reaching his determination in this matter. Pursuant to 21 CFR 1301.54(e), the Administrator finds that Respondent has waived his opportunity for a hearing.

This is not the first time that an Administrator of DEA has considered the registration status of Respondent. In *Roger Lee Palmer, D.M.D.*, Dk. 83-1, 49 FR 950 (January 6, 1984), a prior Administrator denied an application for registration executed by Dr. Palmer. That denial of application followed a hearing presided over by Administrative Law Judge Francis L. Young, who recommended that the Administrator deny the application. Based on Judge Young's findings, the Administrator found that Respondent diverted a huge quantity of cocaine into illicit channels. Respondent was sentenced to participate in a drug counseling program but nothing in Dr. Palmer's testimony at the hearing indicated that his meetings with the drug counselors constituted a meaningful and effective drug counseling program. The Administrator found that Respondent ingested pharmaceutical cocaine up to 20 times a day.

Turning to the current application, the Administrator notes that one Mylan Hopkins, M.D., who testified for Dr. Palmer at the hearing, submitted a letter in support of Dr. Palmer's current application. In the earlier proceeding, the Administrator found that Dr. Hopkins received or used cocaine from Respondent in the presence of the Government's chief witness at the criminal trial of Respondent. Dr. Hopkins signed a stipulation with the California authorities in which he admitted that he had "prescribed, furnished, given away and administered narcotics and dangerous drugs to addicts and habitues" as detailed in a 36-page list of prescriptions written from November 1973 to early 1979. Certainly the recommendation of Dr. Hopkins is of no weight to the Administrator in deciding whether to register Respondent.

Most of the remainder of Respondent's submission consists of petitions from his patients "to the United States Congress and the President of the United States" as well as the DEA to "reinstate the narcotics license" of Respondent. The petitions state that Respondent is the only doctor in Lake County, California who has taken care of emergency patients for oral surgery and facial trauma. Respondent raised this contention at his hearing in 1983. The Administrator found that there was sufficient testimony in the record, including expert testimony from a prominent local dentist, to conclude that alternative dental services are available to the members of the Lakeport community.

The Administrator can find nothing new in support of this application that was not present, in some form, in Dr. Palmer's prior case. Respondent is still unable to responsibly handle controlled substances. The crimes of which he was convicted was serious. Having examined the record, the Administrator cannot in good conscience register Respondent.

Accordingly, pursuant to the authority vested in the Attorney General by 21 U.S.C. 824(a) and redelegated by 28 CFR 0.100, the Administrator hereby denies the application executed by Roger Lee Palmer, D.M.D. on February 15, 1985, and any other pending applications for registration, for reason that Roger Lee Palmer, D.M.D. was convicted of felonies relating to controlled substances. The denial will be effective September 23, 1985.

Dated: August 20, 1985.

John C. Lawn,

Administrator.

[FR Doc. 85-20224 Filed 8-22-85; 8:45 am]

BILLING CODE 4410-09-M

Donald Patsy Rocco, D.D.S.; Revocation of Registration

On May 30, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Donald Patsy Rocco, D.D.S., (Respondent), 2029 North Main Street, P.O. Box 3677, Salinas, California 93912, proposing to revoke his DEA Certificate of Registration AR2533710 as a practitioner. The statutory basis for the proposed action, under 21 U.S.C. 824(a)(2) was Respondent's conviction in the Superior Court of Los Angeles, State of California of illegal sale of cocaine in violation of California Health and Safety Code Section 11352, a felony relating to controlled substances. An additional statutory ground pursuant to 21 U.S.C. 824(a)(1) was the fact that Dr. Rocco indicated on an application for DEA registration, and on an application for renewal of that registration, that he had not been convicted of a felony relating to controlled substances, constituting a material falsification of an application for registration. Dr. Rocco received the Order to Show Cause by registered mail, return receipt requested on June 10, 1985. He was advised in the Order to Show Cause that he had 30 days to respond or request a hearing. On July 29, 1985, a letter from Dr. Rocco dated July 12, 1985, was received in the office of the Deputy Assistant Administrator, Office of Diversion Control. Dr. Rocco did not request a hearing. In addition, his response came well beyond the 30-day period. The Administrator therefore finds that Respondent has waived his opportunity for a hearing. 21 CFR 1301.54(d). Even though not timely filed, the Administrator will consider Dr. Rocco's letter and include it in the record. Accordingly, the Administrator hereby issues his final order in this matter on the record as it appears. 21 CFR 1301.54(e).

The Administrator finds that on January 12, 1976, Dr. Donald Patsy

Rocco attempted to sell two ounces of pharmaceutical cocaine bearing lot number 72515 to undercover Los Angeles Police Department officers and DEA Agents. At this time Dr. Rocco was registered with the Drug Enforcement Administration as a dentist in Livermore, California, and assigned DEA number AR1401102. Two days after the attempted sale, a DEA Diversion Investigator went to Dr. Rocco's registered location in Livermore, California, and attempted to speak to Dr. Rocco and review his records pertaining to controlled substances. After being identified to the receptionist and waiting several minutes, the Investigator was informed that Dr. Rocco had left the office. Subsequent investigation revealed that Dr. Rocco had reported a theft of cocaine bearing lot number 72515 from the safe in his office to the Livermore, California Police Department on January 15, 1976. The doctor's receptionist later told police that when the Investigator arrived, she went back and told Dr. Rocco and he left by the rear door leaving his safe open and empty. On June 4, 1976, Dr. Rocco met with the DEA Diversion Investigator and explained his records and office use of cocaine. Dr. Rocco had ordered 19.25 ounces of pharmaceutical cocaine in the 20 months from March, 1974 to November, 1975. The doctor's dispensing records did not indicate quantities dispensed and he had several unverified destructions of cocaine, including a broken one ounce bottle of cocaine which he said he destroyed. He also told the investigator that 9.5 ounces of cocaine were stolen from his office on January 14 or 15, 1976. He did not report this theft as he is required to do, until June 14, 1976.

On June 28, 1976, Dr. Rocco pled guilty to illegal sale of cocaine, a violation of California Health and Safety Code section 11352(a). This is a felony relating to controlled substances. Dr. Rocco was sentenced to one year in the Los Angeles County Jail. After an Order to Show Cause was issued, Dr. Rocco's DEA Certificate of Registration was revoked on June 28, 1977. Subsequently, Dr. Rocco's dental license was placed on five years probation pursuant to a stipulated order of the California Board of Dental Examiners. One of the terms of the probation was that Dr. Rocco not maintain a DEA registration during the five year term of his probation.

The Administrator further finds that on September 12, 1983, Dr. Donald Patsy Rocco signed a DEA application for registration. On this application Dr. Rocco indicated that he had not been convicted of a felony in connection with controlled substances under state or federal law, and that he had not had a previous Controlled Substances Act registration revoked. On March 25, 1985, Dr. Rocco submitted a renewal for that registration on which he indicated that he had not been convicted of a felony relating to controlled substances, nor had a previous CSA registration been revoked. The fact that Dr. Rocco materially falsified two application forms for DEA registration provides yet another ground for revocation of a registration pursuant to 21 U.S.C. 824(a)(1).

Dr. Rocco submitted a letter dated July 12, 1985, to the Deputy Assistant Administrator, Office of Diversion Control, in which he responded to the Order to Show Cause. In Dr. Rocco's brief letter he states that he applied for a DEA Certificate of Registration after the State of California, "dismissed the charges of December 21, 1976." Dr. Rocco also indicated in his letter that his statement that a previous registration had not been revoked was not false because he never renewed the registration.

Dr. Rocco's felony conviction of December 21, 1976, was set aside or dismissed pursuant to section 1203.4 of the California Penal Code on May 15, 1979. The Administrator finds, however, that the California court's action under California statute does not "erase" the conviction for purposes of 21 U.S.C. 824. This finding is based upon decisions of federal courts interpreting the relationship of California Penal Code section 1203.4 to actions by federal agencies predicated upon dismissed felony convictions, the language of the Penal Code Section itself, and agency precedent affording the term "conviction" with the broadest possible meaning.

The United States Court of Appeals for the Ninth Circuit has upheld the use of felony convictions which have been dismissed or set aside pursuant to California Penal Code section 1203.4 as a predicate to federal actions under federal statutes. *United States* v. *Andrino*, 497 F.2d 1103 (9th Cir. 1974) [gun control]; *Cruz-Martinez* v. *Immigration and Naturalization Service*, 404 F.2d 1198 (9th Cir. 1968) [deportation]. In the *Cruz-Martinez* decision, which involved deportation based upon a violation of California State narcotics law, the Ninth Circuit Court of Appeals stated at page 1200, "It would defeat the purpose . . . (of federal law) if provisions of local law, dealing with rehabilitation of a convicted person, could remove them from the ambit of (federal penal enactments) . . . We do not think Congress intended such result. *Reyes* v. *United States*, 258 F.2d 774 (9th Cir. 1958)." There have been no judicial decisions regarding California Penal Code section 1203.4 as it relates to the term "conviction" used in 21 U.S.C. 824. It was surely not the intent of Congress to predicate the revocation of a practitioner's DEA Certificate of Registration upon a conviction and then have federal actions vary depending upon the state in which the conviction arose and the nature of a state's post conviction remedies.

Respondent was found guilty of a felony relating to controlled substances, he served a jail sentence, paid a fine, and was on supervised probation. The setting aside of the conviction was not a finding of innocence. Its purpose was to facilitate the rehabilitation of the convicted person. Even in the language of the statute itself, the California legislature chose to include the following provision, ". . . the probationer shall be informed that the order does not relieve him of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency." Ca P.C. 1203.4.

In other revocation actions by the Administrator of the Drug Enforcement Administration pursuant to 21 U.S.C. 823 and 824, the Administrator has determined that the term "conviction" should be afforded its broadest possible meaning. See *In Re Faunce Drug Store*, Docket No. 82-3, 47 FR 30122 (1982). The Administrator continues to find that Congress intended the word "convicted" as used in 21 U.S.C. 823 and 824 to be interpreted in its broadest sense.

Respondent may believe that the dismissal or setting aside of his felony conviction by the California court precludes its disclosure to the Drug Enforcement Administration on an application for registration. However, where it was clearly the intent of the California legislature that a conviction dismissed or set aside under California Penal Code section 1203.4 be disclosed to state and local licensing agencies, and upon finding that Respondent's conviction is a conviction of a felony relating to controlled substances pursuant to 21 U.S.C. 824(a)(2), the Administrator finds that the Respondent should have disclosed such information on his DEA application for registration, and that failure to do so was material falsification of an application for registration purusant to 21 U.S.C. 824(a)(1).

Dr. Rocco's previous DEA Certificate of Registration was revoked in June, 1977. Dr. Rocco and his attorney of record were advised of that fact via registered letter dated June 28, 1977. This revocation was based upon the Respondent's conviction in December of 1976 of attempted sale of two ounces of pharmaceutical cocaine, cocaine which came into his possession through his DEA Certificate of Registration. The Respondent indicated in his letter dated July 12, 1985, that he cooperated with DEA through his attorney. Counsel represented Respondent in the previous Show Cause proceeding that resulted in the June, 1977 revocation of Dr. Rocco's previous DEA Certificate of Registration. Counsel also arranged a meeting between a DEA Investigator and Respondent in June, 1976, for a review of Respondent's controlled substance records. There is no record of any assistance provided by Dr. Rocco to DEA.

The Respondent has provided the Administrator with no information which would serve in mitigation of his past actions. Respondent is only registered with DEA at the present time due to his failure to disclose the prior felony conviction, and revocation action.

In consideration of the foregoing, and having a lawful basis for such action, 21 U.S.C. 824 (a)(1) and (a)(2), it is the decision of the Administrator that Dr. Rocco's DEA Certificate of Registration should be revoked.

Accordingly, pursuant to the authority vested in him by 21 U.S.C. 824 and 28 CFR 0.100(b), the Administrator hereby revokes Certificate of Registration AR2533710 previously issued to Donald Patsy Rocco, D.D.S. and denies any pending applications for renewal, effective September 23, 1985.

Dated: August 19, 1985.

John C. Lawn,

Administrator.

[FR Doc. 85-20225 Filed 8-22-85; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

United States Employment Service; Labor Certification Process for the Temporary Employment of Aliens in Agriculture; 1985 Adverse Effect Wage Rates and Plans for 1986

Correction

In FR Doc. 85-19623 beginning on page 33121 in the issue of Friday, August 16, 1985, make the following correction on page 33122: In the first column, in the table, in the entry for Texas, in the second column under the heading "1984 rates", "497" should read "3.97".

BILLING CODE 1505-01-M

Office of Pension and Welfare Benefit Programs

[Application No. D-4918 et al.]

Proposed Exemptions; K's Merchandise Mart, Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type of requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

K's Merchandise Mart, Inc. Profit Sharing Plan and Trust (the Plan) Located in Decatur, Illinois

[Application No. D-4918]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale of a 3.28 acre parcel of unimproved real property (the Property) by the Plan to K's Merchandise Mart, Inc. (the Employer), provided that the price paid for the Property is not less than its fair market value at the time of sale.

Summary of Facts and Representations

1. The Plan is a defined contribution plan, established by the Employer on December 15, 1971. As of December 31, 1982, the Plan had 450 participants and net assets of $1,993,870.27, of which 92% consisted of parcels of real property including the Property. The trustees of the Plan (the Trustees) are David Kay Eldridge and Ray Eldridge, Jr., each of whom owns 50% of the stock of the Employer.