

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States v. Harold Shane*, Civil Action No. C-3-89-383, was lodged on Sept. 29, 1995 with the United States District Court for the Southern District of Ohio. The proposed consent decree will resolve claims against sixteen parties for the recovery of response costs expended by the Environmental Protection Agency at the Arcanum Iron and Metal Superfund Site in Arcanum, Ohio pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. ("CERCLA"). EPA has determined that each of the settling parties qualifies for *de minimis* treatment in accordance with CERCLA Section 122(g), 42 U.S.C. 9622(g). The settlement requires the settling parties to make payments totalling \$739,568.

The consent decree includes a covenant not to sue by the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and under Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973 ("RCRA").

The Department of Justice will receive, until November 16, 1995, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Harold Shane*, Civil Action No. C-3-89-383, and the Department of Justice Reference No. 90-11-3-504. Commenters may request an opportunity for a public hearing in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed consent decree may be examined at the Office of the United States Attorney, Southern District of Ohio, 200 West Second Street, Dayton, Ohio, 45402; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202-624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$10.50 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,
Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95-25704 Filed 10-16-95; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 14, 1995, and published in the Federal Register on April 27, 1995 (60 FR 20751), Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066 (Johnson Matthey), made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396)	I
Difenoxin (9168)	I
Methylphenidate (1724)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Fentanyl (9801)	II

Pursuant to 21 CFR 1301.43, any pending applicant or person currently registered with DEA to manufacture these controlled substances were invited to file comments or a written request for a hearing on Johnson Matthey's application. Two comments and several requests for hearing were received by DEA.

One comment requested denial of Johnson Matthey's application with respect to 2,5-dimethoxyamphetamine on the ground that adequate domestic supplies of that controlled substance exist. The second comment raised issues as to whether Johnson Matthey could maintain appropriate and effective safeguards to prevent theft and diversion of meperidine. The commenter further stated that it is

Johnson Matthey's burden to prove that its registration as a bulk manufacturer of meperidine is in the public interest. Neither of these commenters requested a hearing.

The comments were considered, however, DEA has found that the firm does not constitute a new source of 2,5-Dimethoxyamphetamine for domestic supplies since the firm has been approved as a manufacturer of this controlled substance on previous applications. DEA has also reviewed the firm's safeguards to prevent the theft and diversion of meperidine and found that the firm has met the regulatory requirements of the Controlled Substances Act. Therefore, DEA has determined that the application should be approved for these controlled substances.

Written requests for hearing were filed with respect to methylphenidate, codeine, oxycodone, hydrocodone, morphine, oxymorphone, levorphanol, methadone, methadone intermediate, meperidine intermediate-A, meperidine intermediate-B and meperidine intermediate-C. By letter to the Deputy Assistant Administrator, Office of Diversion Control, DEA, dated July 27, 1995, Johnson Matthey withdrew its application for registration as a bulk manufacturer of all of these controlled substances, with the exception of methylphenidate. The request for a hearing on methylphenidate was docketed before Administrative Law Judge Mary Ellen Bittner as Docket No. 95-41.

On May 8, 1995, as a result of an earlier proceeding, the Deputy Administrator of the DEA issued a final order granting Johnson Matthey's prior application for registration as a bulk manufacturer of methylphenidate. 60 FR 26050. Due to the pending administrative proceeding concerning methylphenidate, Johnson Matthey will continue on a day-to-day registration to bulk manufacture methylphenidate pending resolution of Docket No. 95-41. Pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by Johnson Matthey for registration as a bulk manufacturer be granted for the following basic classes of controlled substances: 2,5-dimethoxyamphetamine, difenoxin, hydromorphone, diphenoxylate, meperidine, alfentanil, sufentanil, carfentanil and fentanyl.

Dated: October 20, 1995.
 Gene R. Haislip,
*Deputy Assistant Administrator, Office of
 Diversion Control, Drug Enforcement
 Administration.*
 [FR Doc. 95-25660 Filed 10-16-95; 8:45 am]
 BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-09973, et al.]

Proposed Exemptions; Kay Alden, Inc.

AGENCY: Pension and Welfare Benefits
 Administration, 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 restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of

Labor, Room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

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 proposed 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 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption 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.

Kay Alden, Inc. Money Purchase Plan (the Plan), Located in Chicago, Illinois
 [Application No. D-09973]

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 29 CFR Part 2570, Subpart B (55 FR 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(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 purchase of real property (the Purchase) by the Plan from Mr. Vernon Nelson (Nelson), a party in interest with respect to the Plan provided that: (a) The Purchase is a one time transaction for cash; (b) the Plan will pay no more than fair market value for the Property, as determined by an independent qualified real estate

appraiser at the time of the transaction; (c) the fair market value of the Property represents no more than 25% of the value of the Plan's assets; (d) the Plan's interests with respect to the Purchase are represented by two independent fiduciaries (e) the Plan will pay no fees or commissions associated with the Purchase; and (f) all terms and conditions of the Purchase are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan having three participants and assets with a fair market value of \$1,533,292 as of January 12, 1995. The trustees of the Plan are Nelson and Kay Alden Nelson. The Plan sponsor is in the business of script writing for day time soap operas.

2. The Property consists of eighteen undeveloped building sites located in Spyglass Hills, a subdivision in Hutchinson, Kansas. The Spyglass subdivision is located to the North and East of Hutchinson, Kansas. The sewer, natural gas, underground electrical and telephone wires are accessible to all lots. Over the last twenty years, the development in Hutchinson has been in the general area of Spyglass Hills. Spyglass Hills currently is the only development with growth potential which has sewer and utilities in place. Spyglass Hills should be completely developed within the next five to ten years.

In 1989, Nelson acquired twenty-five lots. During the past three years, Nelson has been preparing the subdivision for development. He has encouraged housing starts by working with developers and individuals willing to build homes. There is a fully occupied five unit luxury condominium in Spyglass Hills, and a townhouse complex is to be built within the next year.

3. The Property was appraised on October 31, 1994 by Ralph E. Gingerich, an independent and qualified real estate appraiser. Mr. Gingerich calculated that the fair market value of the Property to be \$324,000 using the comparable sales approach. In his appraisal, he states that market conditions and growth potential are favorable, and new housing starts have increased sharply in the past two years causing values and sales of sites to increase rapidly.

4. The Plan is seeking a suitable replacement for an unrelated real estate holding it sold in August 1994 and therefore, proposes to purchase the Property. The Private Bank and Trust Company (the Bank) has been retained