IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IN THE MATTER OF THE ADMINISTRATIVE INSPECTION OF WALGREEN COMPANY DBA - WALGREENS #13000 860 East Avenue Chico, California 95926	)	**Magistrate Docket Number:** 2:18-SW-0158 AC

FILED
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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

APPLICATION FOR ADMINISTRATIVE INSPECTION WARRANT
UNDER THE CONTROLLED SUBSTANCES ACT, 21 U.S.C. § 880

TO: THE UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF CALIFORNIA

The Controlled Substances Act, 21 U.S.C. §§ 801-904, (the "CSA") provides for government supervision of those individuals or entities engaged in manufacturing and distributing controlled substances ("registrants"). The CSA requires that a manufacturer or distributor of controlled substances be registered with the Drug Enforcement Administration (DEA). 21 U.S.C. § 822. There are both civil and criminal penalties for violations of the Act. 21 U.S.C. §§ 825-865.

To ensure compliance with the CSA and its implementing regulations, the DEA is authorized to conduct inspections of a registrant's premises. 21 U.S.C. § 880. Specifically, the CSA authorizes the DEA to conduct administrative inspections to: (1) inspect records, reports, and other documents required to be kept or made under the Act; and (2) inspect the controlled premises, all pertinent equipment, drugs, and other substances or materials, containers, and labeling found therein (including

records, files, papers, processes, controls and facilities) appropriate for verification of the records, reports and documents, or otherwise bearing on the provisions of the Act;[1] and (3) inventory the stock of any controlled substance and obtain samples of such substances. 21 U.S.C. § 880(b)(3). "The statutory scheme envisioned by the Act is one of control through record keeping." United States v. Greenberg, 334 F.Supp. 364, 366 (W.D. PA 1971). "Any person who desires to shoulder the responsibility of engaging in the manufacture or distribution of these products . . . [is subject] to the regulatory system laid down by the 1970 Act." Id., at 367.

Upon a showing of probable cause, a United States District Judge or United States Magistrate Judge may issue a warrant for the purpose of conducting an administrative inspection. 21 U.S.C. § 880(d). "Probable cause" is defined by the CSA as "a valid public interest in the effective enforcement of [the Act]." 21 U.S.C. § 880(d)(1). "Probable cause" in the traditional criminal law sense is not required to support the issuance of an administrative warrant. Marshall v. Barlow's Inc., 436 U.S. 307, 320 (1978). Rather, the fact that a registrant has never been inspected to ensure compliance with

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1. The Act provides for the inspection of items such as records, files and papers, the maintenance of which is not required under the Act, but which is appropriate for the verification of the requirements of the Act. 21 U.S.C. § 880(b)(3)(B). The Act does not specifically provide for the copying of such items. Id.

compulsory record-keeping requirements alone justifies an administrative warrant. United States v. Prendergast, 585 F.2d 69, 70 (3rd Cir. 1978), citing United States v. Goldfine, 538 F.2d 815, 818-819 (9th Cir. 1976). The subject registrant has never been inspected by DEA. See attached Affidavit at paragraph 6.

Christina Grijalva, Diversion Investigator, United States Drug Enforcement Administration, stationed in the Sacramento, California District Office, hereby applies for an Administrative Inspection Warrant pursuant to the Controlled Substances Act, 21 U.S.C. § 880(d), for the inspection and search of the following controlled premises:

Walgreen Company
DBA - Walgreens #13000
860 East Avenue
Chico, California 95926

This Application for an Administrative Inspection Warrant is based upon the attached Affidavit.

Dated: February 26, 2018

Christina Grijalva
Diversion Investigator
Drug Enforcement Administration

Approved as to form:

Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

IN THE MATTER OF THE	)	**Magistrate Docket Number:**
ADMINISTRATIVE INSPECTION OF	)	
WALGREEN COMPANY	)	
DBA - WALGREENS #13000	)	
860 East Avenue	)	
Chico, California 95926	)	2:18-SW-0158 AC

AFFIDAVIT FOR APPLICATION FOR ADMINISTRATIVE INSPECTION WARRANT UNDER THE CONTROLLED SUBSTANCES ACT, 21 U.S.C. § 880(d)

The undersigned, Christina Grijalva, being duly sworn, declare:

1. I am a Diversion Investigator with the Drug Enforcement Administration ("DEA"), United States Department of Justice, assigned to the Sacramento, California District Office.

2. DEA hired me in August 2012. I have received training in the manufacturing, distribution and dispensation of pharmaceutical controlled substances, and the corresponding records and inventories that are required to be kept pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. §§ 801, *et seq.*, (the "CSA").

3. Sections 878(a)(2), 880(b)(1), (2) and (3), of the CSA authorize me as part of my job to execute Administrative Inspection Warrants to inspect the controlled premises of persons and firms registered under the CSA. The inspections

allow DEA Personnel to verify the correctness of all records, reports and other documents the CSA requires a registrant to make and keep. Specifically, the Act authorizes the DEA to conduct administrative inspections to: (1) inspect records, reports, and other documents required to be kept or made under the Act; and (2) inspect the controlled premises, all pertinent equipment, drugs, and other substances or materials, containers, and labeling found therein (including records, files, papers, processes, controls and facilities) appropriate for verification of the records, reports and documents, or otherwise bearing on the provisions of the Act; and (3) inventory the stock of any controlled substance and obtain samples of such substances. 21 U.S.C. § 880(b)(3).[1]

4. Walgreens Company, DBA Walgreens #13000 ("Walgreens 13000") is registered under the CSA, as a Chain Pharmacy and has been assigned DEA Registration Number BW3614888 in controlled substances Schedules 2-5. This registrant conducts business as Walgreens, at 860 East Avenue, Chico, California 95926.

5. Walgreens #13000 is a controlled premise within the meaning of 21 U.S.C. § 880(a)(1) and (2), and 21 C.F.R. §

1. The Act provides for the inspection of items such as records, files, and papers, the maintenance of which is not required under the Act, but such inspection is appropriate for the verification of the requirements of the Act. 21 U.S.C. § 880(b)(3)(B). The Act does not specifically provide for the copying of such items.

1316.02(c)(1) and (2). As such, Walgreens #13000 is required to keep complete and accurate records of all controlled substances received, sold, delivered or otherwise disposed at this location. 21 U.S.C. § 827 and 21 C.F.R. § 1304.01, *et seq.* The inspection of the controlled premises is designed to ensure Walgreens #13000 compliance with the CSA and its regulations.

6. I have examined the DEA's files, records and other databases, and determined the DEA has never inspected Walgreens #13000.

7. On February 2, 2018, I completed an inquiry check of the DEA's Automation of Reports and Consolidated Orders System ("ARCOS") regarding Walgreens #13000 purchasing patterns. The inquiry check covered the top drug purchasers for the past two years of transactions. The results of this inquiry check revealed that Walgreens #13000 was the number one purchaser in their area by zip code for the highly addictive and highly abused controlled substances hydrocodone and oxycodone as follows:

a. In 2017, Walgreens #13000 purchased 590,440 dosage units of hydrocodone, where the number two top purchaser purchased a total of 294,290 dosage units of hydrocodone for the transaction year.

b. In 2016, Walgreens #13000 purchased 638,880 dosage units of hydrocodone, where the number two top purchaser purchased a total of 354,050 dosage units of hydrocodone for the transaction year. Comparatively, the state average for hydrocodone purchases in 2016 was 125,830 dosage units and the U.S. average was 87,261 dosage units.

c. In 2015, Walgreens #13000 purchased 680,030 dosage units of hydrocodone, where the number two top purchaser purchased a total of 390,620 dosage units of hydrocodone for the transaction year.

d. In 2017, Walgreens #13000 purchased 258,100 dosage units of oxycodone, where the number two top purchaser purchased a total of 128,100 dosage units of oxycodone for the transaction year.

e. In 2016, Walgreens #13000 purchased 325,000 dosage units of oxycodone, where the number two top purchaser purchased a total of 160,300 dosage units of oxycodone for the transaction year. Comparatively, the state average for oxycodone purchases in 2016 was 48,976 dosage units and the U.S. average was 69,616 dosage units.

f. In 2015, Walgreens #13000 purchased 344,600 dosage units of oxycodone, where the number two top purchaser

purchased a total of 170,300 dosage units of hydrocodone for the transaction year.

8. On February 2, 2018, I also queried Walgreens #13000 in the Drug Theft/Loss system and three DEA 106 forms, Report of Theft or Loss of Controlled Substances. Of the three reports filed, one was submitted on October 18, 2016 citing an "unexplained loss" of nearly 8000 hydrocodone 10/325mg tablets valued at $6,213.00.

9. Given these facts, I believe there will be numerous record keeping violations related to the distribution and/or dispensation of controlled substances at Walgreens #13000. I further believe the requested inspection will help protect the public health and safety, and advance the CSA's public interest in enforcing the Act's oversight provisions.

10. The DEA needs to review Walgreen's #13000 containers, and labeling, and all other things therein including records, files and papers, processes, controls and facilities appropriate for the verification of the CSA, such as written and electronic correspondence regarding maintenance of inventories, theft or loss reports, communications related to Walgreen's #13000 compliance with the CSA, written policies, procedures and training regarding maintenance of inventories, perpetual inventories, biennial inventories, internal audits and

manuals or written material describing computer programs or other procedures Walgreen's #13000 uses to maintain inventories of controlled substances appropriate for the verification of the records, reports, and documents required by the CSA.

11. I will be accompanied by one or more Investigators during the inspection who are employees of the Attorney General authorized to conduct administrative inspections and one or more DEA Special Agents. A return will be made to the on-duty Magistrate Judge upon the inspection's completion.

12. I have personal knowledge of the facts stated herein, and state they are true to the best of my knowledge.

Christina Grijalva
Diversion Investigator
Drug Enforcement Administration

Sworn to before me and subscribed
in Sacramento, California
on this 26 day of February, 2018.

Honorable Allison Claire
United States Magistrate Judge
United States District Court
For the Eastern District of California