

JS 44C/SDNY
REV. 12/2005

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

United States of America

DEFENDANTS

Fleurechem, Inc.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Louis A. Pellegrino, Assistant U.S. Attorney, 86 Chambers St. 3rd Floor, New York, NY 10007 / 212-637-2689

ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

21 U.S.C. § 801 et seq. - violations of the Controlled Substances Act - failure to notify the Attorney General of the sea or exportation of "List I" chemicals

Has this or a similar case been previously filed in SDNY at any time? No Yes? Judge Previously Assigned

If yes, was this case Vol. Invol. Dismissed. No Yes If yes, give date _____ & Case No. _____

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES		
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 362 PERSONAL INJURY - MED MALPRACTICE	<input checked="" type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 400 STATE	<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT LIABILITY	<input checked="" type="checkbox"/> 620 FOOD & DRUG	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> 320 ASSAULT, LIBEL & SLANDER	<input type="checkbox"/> 365 PERSONAL INJURY PRODUCT LIABILITY	<input type="checkbox"/> 625 DRUG RELATED SEIZURE OF PROPERTY	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> 430 BANKS & BANKING	<input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT	<input type="checkbox"/> 330 FEDERAL EMPLOYERS' LIABILITY	<input type="checkbox"/> 27 USC 881	<input type="checkbox"/> 28 USC 157	<input type="checkbox"/> 435 COMMERCE/ICC RATES/ETC
<input type="checkbox"/> 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	<input type="checkbox"/> 340 MARINE	<input type="checkbox"/> 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	<input type="checkbox"/> 630 LIQUOR LAWS	PROPERTY RIGHTS		<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT LIABILITY	<input type="checkbox"/> 640 RR & TRUCK	<input type="checkbox"/> 820 COPYRIGHTS	<input type="checkbox"/> 460 DEPORTATION
<input type="checkbox"/> 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 370 OTHER FRAUD	<input type="checkbox"/> 640 AIRLINE REGS	SOCIAL SECURITY		<input type="checkbox"/> 153 RECOVERY OF OVERPAYMENT OF VETERANS BENEFITS	<input type="checkbox"/> 355 MOTOR VEHICLE PRODUCT LIABILITY	<input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH	<input type="checkbox"/> 830 PATENT	<input type="checkbox"/> 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
<input type="checkbox"/> 160 STOCKHOLDERS SUITS	<input type="checkbox"/> 360 OTHER PERSONAL INJURY	<input type="checkbox"/> 380 OTHER PERSONAL PROPERTY DAMAGE	<input type="checkbox"/> 660 SAFETY/HEALTH	LABOR		<input type="checkbox"/> 190 OTHER CONTRACT	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 690 OTHER	<input type="checkbox"/> 840 TRADEMARK	<input type="checkbox"/> 480 CONSUMER CREDIT
<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	ACTIONS UNDER STATUTES		<input type="checkbox"/> 690 OTHER	<input type="checkbox"/> 710 FAIR LABOR STANDARDS ACT	<input type="checkbox"/> 861 MIA (1395FF)	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING	<input type="checkbox"/> 720 LABOR/MGMT RELATIONS	<input type="checkbox"/> 862 BLACK LUNG (923)	<input type="checkbox"/> 490 CABLE/SATELLITE TV
<input type="checkbox"/> 196 FRANCHISE	CIVIL RIGHTS		<input type="checkbox"/> 730 LABOR/MGMT REPORTING & DISCLOSURE ACT	<input type="checkbox"/> 720 LABOR/MGMT RELATIONS	<input type="checkbox"/> 863 DIWW (405(g))	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 375 PRODUCT LIABILITY	<input type="checkbox"/> 730 LABOR/MGMT REPORTING & DISCLOSURE ACT	<input type="checkbox"/> 864 SSID TITLE XVI	<input type="checkbox"/> 810 SELECTIVE SERVICE
<input type="checkbox"/> 210 LAND CONDEMNATION	<input type="checkbox"/> 441 VOTING	PRISONER PETITIONS		<input type="checkbox"/> 740 RAILWAY LABOR ACT	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 740 RAILWAY LABOR ACT	<input type="checkbox"/> 866 SSID TITLE XVI	<input type="checkbox"/> 850 SECURITIES/COMMODITIES/EXCHANGE
<input type="checkbox"/> 220 FORECLOSURE	<input type="checkbox"/> 442 EMPLOYMENT	<input type="checkbox"/> 510 MOTIONS TO VACATE SENTENCE	<input type="checkbox"/> 375 PRODUCT LIABILITY	<input type="checkbox"/> 750 OTHER LABOR LITIGATION	<input type="checkbox"/> 867 IRS-THIRD PARTY	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 750 OTHER LABOR LITIGATION	<input type="checkbox"/> 868 RSI (405(g))	<input type="checkbox"/> 875 CUSTOMER CHALLENGE
<input type="checkbox"/> 230 RENT LEASE & EJECTMENT	<input type="checkbox"/> 443 HOUSING ACCOMMODATIONS	<input type="checkbox"/> 530 HABEAS CORPUS	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 770 OTHER LABOR	<input type="checkbox"/> 870 TAXES	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 770 OTHER LABOR	<input type="checkbox"/> 869 RSI (405(g))	<input type="checkbox"/> 891 AGRICULTURE ACTS
<input type="checkbox"/> 240 TORTS TO LAND	<input type="checkbox"/> 444 WELFARE	<input type="checkbox"/> 535 DEATH PENALTY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 790 OTHER LABOR	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 790 OTHER LABOR	<input type="checkbox"/> 870 TAXES	<input type="checkbox"/> 892 ECONOMIC STABILIZATION ACT
<input type="checkbox"/> 246 TORT PRODUCT LIABILITY	<input type="checkbox"/> 445 AMERICANS WITH DISABILITIES - EMPLOYMENT	<input type="checkbox"/> 540 MANDAMUS & OTHER	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 791 EMPL RET INC SECURITY ACT	<input type="checkbox"/> 20 USC 7609	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 791 EMPL RET INC SECURITY ACT	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 893 ENVIRONMENTAL MATTERS
<input type="checkbox"/> 290 ALL OTHER REAL PROPERTY	<input type="checkbox"/> 446 AMERICANS WITH DISABILITIES - OTHER	<input type="checkbox"/> 550 CIVIL RIGHTS	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 791 EMPL RET INC SECURITY ACT	<input type="checkbox"/> 20 USC 7609	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 791 EMPL RET INC SECURITY ACT	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 894 ENERGY ALLOCATION ACT
	<input type="checkbox"/> 440 OTHER CIVIL RIGHTS	<input type="checkbox"/> 555 PRISON CONDITION	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 791 EMPL RET INC SECURITY ACT	<input type="checkbox"/> 20 USC 7609	<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 791 EMPL RET INC SECURITY ACT	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 895 FREEDOM OF INFORMATION ACT

Check if demanded in complaint:

Is Judge Seibel Recused from this Case? Yes

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: YES NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- 1 Original Proceeding
- 2a. Removed from State Court
- 2b. Removed from State Court AND at least one party is a pro se litigant
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from (Specify District)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1332, 1441)

- 1 U.S. PLAINTIFF
- 2 U.S. DEFENDANT
- 3 FEDERAL QUESTION (U.S. NOT A PARTY)
- 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] 1 [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] 5 [] 5
CITIZEN OF ANOTHER STATE	[] 2 [] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

United States of America
 Louis A. Pellegrino
 Assistant United States Attorney
 86 Chambers Street, 3rd Fl.
 New York, NY 10007

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

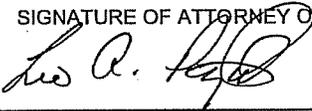
Fleuchem, Inc.
 33 Sprague Ave.
 Middletown, NY 10940

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS FOLEY SQUARE
 (DO NOT check either box if this a PRISONER PETITION.)

DATE SIGNATURE OF ATTORNEY OF RECORD

4 April 2012
 RECEIPT # 

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO
 YES (DATE ADMITTED Mo. 11 Yr. 2005)
 Attorney Bar Code # LP2270

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by  Deputy Clerk, DATED APR - 5 2012

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT

for the

United States of America

Plaintiff

v.

Flewchem, Inc.

Defendant

Civil Action No. 12-cv-

12 CV 2630

SUMMONS IN A CIVIL ACTION

JUDGE RAMOS

To: (Defendant's name and address) Flewchem, Inc.
33 Sprague Ave.
Middletown, NY 10940

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Louis A. Pellegrino
U.S. Attorney's Office
86 Chambers Street, 3rd Floor
New York, NY 10007

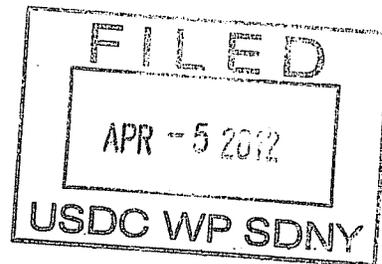
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

[Signature]
CLERK OF COURT
CLERK

Date: APR - 5 2012

[Signature]
Signature of Clerk or Deputy Clerk

PREET BHARARA
United States Attorney for the
Southern District of New York
By: LOUIS A. PELLEGRINO
Assistant United States Attorney
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

Plaintiff,

v.

FLEURCHEM, INC.,

Defendant.
-----X

ECF Case

12 Civ. _____

COMPLAINT

JUDGE RAMOS

JURY TRIAL DEMANDED

12 CV 2630

Plaintiff, the United States of America, by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, alleges for its complaint upon information and belief as follows:

INTRODUCTION

1. The United States of America brings this civil enforcement action seeking penalties and injunctive relief against Fleurchem, Inc. ("Fluerchem"), a Middletown, New York chemical manufacturer and supplier, for repeatedly and knowingly failing to notify the Drug Enforcement Administration ("DEA") of the sale and exportation of certain potentially dangerous chemicals such as methyl anthranilic acid, benzaldehyde, phenylacetic acid, gamma-butyrolactone, and piperonal, to destinations in foreign countries—including Israel, Chile,

Australia, Canada, Germany, France, Singapore, Switzerland, Greece, and the Netherlands—and for failing to maintain records regarding these sales and exports. These chemicals are regulated by the DEA because they can be used to manufacture illegal drugs. Fleurchem’s acts violated the Controlled Substances Act, as amended, 21 U.S.C. §§ 801 *et seq.* (the “Act”) and its implementing regulations, 21 C.F.R. §§ 1301 *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 21 U.S.C. §§ 842, 961(1), 971(a) and 28 U.S.C. §§ 1345, 1355.

3. Venue is proper in the Southern District of New York pursuant to 21 U.S.C. §§ 843(f)(2), and 28 U.S.C. §§ 1391(b) and 1395(a).

THE PARTIES

4. Plaintiff is the United States of America.

5. Fleurchem is a leading global manufacturer and supplier of ingredients for flavors, fragrances, aroma therapy, foods, beverages, personal care products, and other such products. Fleurchem is located at 33 Sprague Ave, in Middletown, New York, within this District. Fleurchem manufactures and sells, among other things, chemicals defined under the Act as “List I chemicals,” pursuant to DEA registration number 006329FRZ. *See* 21 U.S.C. § 802, Definition 34 (“List I”); 21 C.F.R. § 1310.02.

REGULATORY BACKGROUND

6. List I chemicals may be used to provide a variety of flavorings or aromas in household products (such as in carbonated cola beverages), but they can also be used to manufacture illegal drugs such as methamphetamines.

7. List I chemicals are therefore regulated under the Act as chemicals that are used in the manufacture of controlled substances and/or are important to the manufacture of those substances. *See* Controlled Substances Act (the “Act”), 21 U.S.C. § 802, Definition 34 (“List I”) and 35 (“List II”); 21 C.F.R. § 1310.02.

8. To combat the high potential for abuse of List I chemicals, the Act mandates strict adherence to a number of requirements by any person or entity that exports these chemicals. The Act’s reporting requirements are triggered by the importation or exportation of List I chemicals that meet or exceed the threshold quantities identified in 21 C.F.R. § 1310.04(f). Different threshold quantities are established for each List I chemical, as measured by a chemical’s base weight in kilograms. *Id.*

9. Among the reporting requirements is a mandatory annual registration process with DEA. Specifically, chemical companies, such as Fleurchem, that export List I chemicals must register with the DEA—which is authorized to inspect the registrant’s establishment to ensure compliance with the applicable rules and regulations. *See* 21 U.S.C. §§ 822(a)(1), (f).

10. The Act further requires that regulated entities, such as Fleurchem, that import or export a List I chemical “shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.” 21 U.S.C. §§ 971(a), 961(1); 21 C.F.R. § 1313.21(a).

11. Additionally, DEA requires that a form, called “DEA Form 486” be provided to DEA headquarters no later than 15 days prior to the exportation of listed chemicals that meet or exceed the threshold quantities identified in 21 C.F.R. § 1310.04(f). *See* 21 C.F.R. § 1313.21(b); *also* 21 U.S.C. § 971(d).

12. Lastly, a registrant may be penalized for any failure to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice or information required under subchapters I or II of Chapter 13 of the Act, which includes DEA Form 486. *See* 21 U.S.C. §§ 842(a)(5), 842(c)(1)(B).

13. Under the Act, non-compliance with the notification requirements carries a \$25,000 fine per occurrence, as well as potential injunctive remedies. *See* 21 U.S.C. §§ 971(a), 961(1); 843(f), 882(a). A failure to file a DEA Form 486 or keep proper records carries a per-violation penalty of \$10,000, as well as potential injunctive remedies. *See* 21 U.S.C. § 842(c)(1)(B), 21 U.S.C. §§ 843(f), 882(a).

14. The Act specifies that the Attorney General may delegate any of his functions under the Act “to any officer or employee of the Department of Justice.” 21 U.S.C. § 871. This authority has been used to assign responsibility for the sections of the Act discussed in this Complaint—including the registration process, oversight and control of List I chemicals, and the reporting requirements for List I chemicals—to the Administrator of the DEA. *See* 28 C.F.R. § 0.100.

FACTS

15. During the period June 2, 2010 to September 2, 2010, DEA agents conducted inspections and audits of Fleurchem (the “Investigation”) into Fleurchem’s compliance with the Act and its implementing regulations.

16. This Investigation was a follow up to a previous investigation DEA conducted in 2007, in which DEA documented at least 15 occasions when Fleurchem had failed to comply with the requirements of the Act. On June 11, 2007, DEA sent Fleurchem a Letter of

Admonition, which documented these violations. On July 10, 2007, Fleurchem's then-CEO acknowledged receipt of the Letter of Admonition, responding that "[i]n [the] future DEA Form 486 will be filed no later than 15 days prior [to] exportation."

17. Notwithstanding that assurance, on dozens of occasions between June 1, 2008 and October 27, 2010, Fleurchem again exported List I chemicals without properly notifying DEA.

18. The Investigation further revealed that Fleurchem failed to alert DEA to the sale and exportation of these listed chemicals through the provision of a DEA Form 486, at least 15 days before they were sold, as required by law.

19. Among the DEA "List I" chemicals that Fleurchem exported on these dozens of occasions were methyl anthranilic acid, benzaldehyde, phenylacetic acid, gamma-butyrolactone, and piperonal, to destinations in foreign countries including Israel, Chile, Australia, Canada, Germany, France, Singapore, Switzerland, Greece, and the Netherlands.

20. In addition, on May 19, 2011, while the Investigation was on-going, DEA discovered an additional violation that took place on or about April 15, 2011, in which Fleurchem failed to submit DEA Form 486 for the chemical heliotropin, which is also known as piperonal.

21. Therefore, on dozens of occasions between June 1, 2008 and May 19, 2011, Fleurchem failed to alert the Attorney General of the United States, through DEA, to the sale and exportation of List I chemicals through the provision of DEA Form 486, at least 15 days before they were sold or exported.

22. On each of these occasions, the chemicals Fleurchem exported met or exceeded the threshold quantities identified in 21 C.F.R. § 1310.04(f).

23. On each of these occasions, Fleurchem's failure to make, keep and/or furnish DEA Form 486 within 15 days was an independent violation of the Act's recordkeeping requirements.

FIRST CAUSE OF ACTION

(Failure to Notify the Attorney General of the Exportation of List I Chemicals)

24. The United States incorporates by reference each and every allegation in Paragraphs 1-23 above.

25. DEA's Investigation revealed that, on dozens of occasions between June 1, 2008 and May 19, 2011, Fleurchem failed to notify the Attorney General of the United States that it had exported List I chemicals in quantities that met or exceeded the threshold quantities identified in 21 C.F.R. § 1310.04(f), 15 days before the exportation took place.

26. The Attorney General has delegated responsibility for the Act to the DEA. *See* 28 C.F.R. § 0.100.

27. Therefore, Fleurchem's failure to notify the Attorney General, through the DEA, that it exported List I chemicals in quantities that met or exceeded the threshold quantities was in violation of 21 U.S.C. §§ 971(a), 961(1) and 21 C.F.R. § 1313.21(a).

SECOND CAUSE OF ACTION

(Failure to Complete DEA Form 486 15 Days Prior to the Exportation of List I Chemicals)

28. The United States incorporates by reference each and every allegation in Paragraphs 1-27 above.

29. DEA's investigation revealed that, on dozens of occasions between June 1, 2008 and May 19, 2011, Fleurchem failed to complete DEA Form 486 within 15 days prior to the exportation of listed chemicals that met or exceeded the threshold quantities identified in 21 C.F.R. § 1310.04(f).

30. Fleurchem's failure to complete DEA Form 486 was in violation of 21 C.F.R. § 1313.21(b) and 21 U.S.C. § 971(d).

THIRD CAUSE OF ACTION

(Failure to make, keep, or furnish records required under subchapters I or II of Chapter 13 of the Act)

1. The United States incorporates by reference each and every allegation in Paragraphs 1-30 above.

2. In response to requests by DEA agents during the Investigation, Fleurchem was unable to demonstrate that it had provided DEA Form 486 at least 15 days prior to the exportation of List I chemicals on the occasions discussed above between June 1, 2008 and May 19, 2011.

3. Fleurchem's failure to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice or information required under subchapters I or II of Chapter 13 of the Act (*to wit*, DEA Form 486), violated 21 U.S.C. §§ 842(a)(5), and 842(c)(1)(B).

WHEREFORE, the United States demands judgment in its favor and against Fleurchem as follows:

- (a) for a maximum statutory penalty in the amount of \$25,000 for each of the violations discussed herein pursuant to 21 U.S.C. § 961(1);
- (b) for appropriate injunctive relief pursuant to 21 U.S.C. §§ 882(a) and 843(f);
- (c) for the costs of this action; and
- (d) for such further relief as the Court may deem proper.

Dated: New York, New York
April 5, 2012

PREET BHARARA
United States Attorney
Southern District of New York
Attorney for the United States of America

By:


LOUIS A. PELLEGRINO
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