

STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Scott R. Frakes

Director



Pete Ricketts
Governor

June 10, 2015

Ms. Amy A. Miller, Attorney
ACLU of Nebraska
941 O Street, #706
Lincoln, NE 68508

RE: Public Records Request

Dear Ms. Miller

This letter is in response to your letter to Director Frakes dated June 5, 2015, in which you requested copies of various records from us under the Nebraska public records law. You requested copies of a records relating to pharmaceuticals for the purpose of carrying out a lethal injection execution for the time period between May 16, 2015 and the present.

REQUEST 1: Any documents including email, letter, phone message or other communication with any and all potential pharmaceutical manufactures, brokers, or suppliers-whether domestic or foreign-showing efforts to obtain injection drugs.

Response: The public records responsive to your request are enclosed.

REQUEST 2: Any documents including email, letter, phone message, or other communication with Harris Pharma.

Response: The public records responsive to your request are enclosed.

REQUEST 3: Any documents including email, letter, phone message, or other communication with the Department and the Governor's office related to the efforts to obtain injection drugs.

Response: The public records responsive to your request are enclosed.

REQUEST 4: Any documents including email, letter, phone message or other communication with any representatives of the United States Food and Drug Administration in regards to obtaining a license for the importation and acquisition of injection drugs.

Response: The public records responsive to your request are enclosed.

REQUEST 5: Any documentation showing the expiration date for the injection drugs currently in the Department's possession, including a copy of the packaging itself.

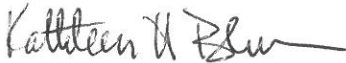
Response: The only drug designated for use in executions currently in the Department's possession is Potassium Chloride, which is routinely stocked in the Department's Central Pharmacy. The Nebraska Department of Correctional Services provided you a copy of the labels corresponding to currently stocked Potassium Chloride with our letter to you dated May 21, 2015.

REQUEST 6: Any documentation showing the use of public funds to purchase injection drugs including any invoice, purchase order, requisition, check, receipt or other similar record.

Response: The Nebraska Department of Correctional Services provided you with copies of invoices for the purchase of Pancuronium Bromide and Sodium Thiopental with our letter to you dated May 21, 2015. The Nebraska Department of Correctional Services has no additional records responsive to this request.

Please contact me at 402-479-5901 if you have any additional questions.

Sincerely



Kathleen A. Blum
Nebraska Department of Correctional Services

XC: Director's Office File
Legal Office File

U.S. Department of Justice / Drug Enforcement Administration
CONTROLLED SUBSTANCES IMPORT / EXPORT DECLARATION

(Read Instructions on reverse before completing)

OMB APPROVAL
No. 1117-0009
EXPIRATION DATE: 9/30/2016
See reverse for Privacy Act

1. CHECK ONE ☒ IMPORT DECLARATION Nonnarcotic Substances in Schedules III, IV, V
☐ EXPORT DECLARATION Nonnarcotic Substances in Schedules III, and IV and all substances in Schedule V

U.S. CUSTOMS
CERTIFICATION

Date of Departure/Arrival

IMPORTER/EXPORTER (Name and Address)

Nebraska State Penitentiary
4201 14th South Street
Lincoln, NE 68502

BROKER OR FORWARDING AGENT, IF USED (Name and Address)

Not Applicable

Date of Certification

Signature of Customs Official

DEA Transaction ID

DEA REGISTRATION NO. 0414184

2. CONTROLLED SUBSTANCES TO BE IMPORTED OR EXPORTED

2a. NAME AND QUANTITY OF DRUG OR PREPARATION
(Enter names as shown on labels; numbers and sizes of packages; strength of tablets, capsules, etc., CSA Drug Code and NDC Number)

Sodium Thiopental 1gm Vial

Quantity: 1,000 Vials

CSA Drug Code: 2100

NDC Number: G2100-0300-**

2b. CONTROLLED SUBSTANCE CONTENT OF DRUG OR PREPARATION expressed as acid, base or alkaloid. (Enter names of controlled substances contained in the drug, compound, or preparation)

Sodium Thiopental

1,000 Vials multiplied by 1 gram Sodium Thiopental = 1,000 grams Sodium Thiopental

No Conversion Factor Applies to Sodium Thiopental per DEA Instruction.

2c. DATE IMPORTED/EXPORTED AND ACTUAL QUANTITY
(Completed by registrant at time of transaction)

3a. ☒ FOREIGN (for U.S. import) ☐ DOMESTIC (for U.S. export) PORT OF EXPORTATION AND APPROX. DEPARTURE DATE

Kolkata, India June 15, 2015 (Approximate)

4a. MODE OF TRANSPORT; NAME OF VESSEL / CARRIER (if known)
Fedex

3b. ☐ FOREIGN (for U.S. export) ☒ DOMESTIC (for U.S. import) PORT OF IMPORTATION AND APPROX. ARRIVAL DATE

Omaha, NE June 18, 2015 (Approximate)

4b. NAME OF ALL INTERMEDIATE CARRIERS
N/A

5. NAME AND ADDRESS OF FOREIGN CONSIGNEE/CONSIGNOR

Harris Pharma LLP
145 B Bosepukur Road
Kolkata 700039, West Bengal, India

I hereby certify that the substance(s) listed in Section 2 are to be ☒ Imported (conform to 21 U.S.C. § 952(b)) ☐ Exported (conform to 21 U.S.C. § 953(e)) and are intended for ☐ Medical, ☐ Scientific, or ☒ Other legitimate uses (attach explanation for other legitimate use).

☐ The above named substances are to be Re-Exported (Attach documentation per Title 21, CFR 1312.27) to (list countries):

If the form is being used as an "Export Declaration", attach documentation that the consignee is authorized under the laws and regulations of the country of destination to receive the controlled substances. If the controlled substances are being re-exported from the first country to second countries, attach documentation that the consignee in the country of ultimate destination is authorized under the laws and regulations of that country to receive the controlled substances.

SIGNATURE OF AUTHORIZED INDIVIDUAL OF IMPORTER / EXPORTER; BROKER OR FORWARDING AGENT

DATE
5/26/2015

NAME OF FIRM AND TELEPHONE NUMBER
State of Nebraska Department of Corrections
(402) 479-5630
E-mail: scott.frakes@nebraska.gov

STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Scott R. Frakes

Director



Pete Ricketts
Governor

May 26, 2015

Drug Enforcement Agency
Attention: ODGI Import/Export Unit (Ms. Kara Sweeney)
8701 Morrisette Drive
Springfield, Virginia 22152

RE: Form 236 Legitimate Use Declaration

To Whom It May Concern

I, Scott R. Frakes, as Director of the Nebraska Department of Correctional Services do hereby notify the United States Drug Enforcement Agency that I have sought the importation of Sodium Thiopental pursuant to DEA Form 236. The shipment of 1,000 vials containing one gram each of Sodium Thiopental will solely be used for the legitimate purpose of the Nebraska Department of Correctional Services carrying out lethal injections for those persons sentenced to death in the State of Nebraska.

Sincerely

Scott R. Frakes, Director
Nebraska Department of Correctional Services

XC: File

POTASSIUM CHLORIDE
 30 mL
 2 mEq/mL (60 mEq)
 Concentrate Must Be Diluted Before Use
 For Injection Concentrate, USP
 63323-967-30 96730

MUST BE DILUTED PRIOR TO IV ADMINISTRATION
 Sterile, Nonpyrogenic
 Each mL contains:
 Potassium chloride 2 mEq (4.9 mEq); methylparaben 0.05%; propylparaben 0.05%; Water for Injection q.s. HCl and/or KOH may have been added for pH adjustment.
 Contains no more than 100 mcg/L of aluminum.
 Usual Dosage: See insert.
 Store at 20° to 25°C (68° to 77°F) [see USP Controlled Room Temperature]. Vials stoppers do not contain natural rubber latex.



LOT/EXP 401702H
 6009123
 01/17

3 63323-967-30 7

116-5745
 POTASSIUM
 I#50115
 25 2 MEO
 5246
 C 5

POTASSIUM CHLORIDE
 30 mL
 2 mEq/mL (60 mEq)
 Concentrate Must Be Diluted Before Use
 For Injection Concentrate, USP
 NDC 63323-967-30 96730

MUST BE DILUTED PRIOR TO IV ADMINISTRATION
 Sterile, Nonpyrogenic
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LOT/EXP 401702H
 6009123
 01/17

3 63323-967-30 7

116-5745
 POTASSIUM
 I#50115
 25 2 MEO
 5246
 C 5

NDC 63323-967-30 96730

POTASSIUM CHLORIDE

For Injection Concentrate, USP

Concentrate Must Be
Diluted Before Use

2 mEq/mL (60 mEq)

30 mL
Multiple Dose Vial

Rx only

**MUST BE DILUTED PRIOR
TO IV ADMINISTRATION**

Sterile, Nonpyrogenic

Each mL contains:
Potassium chloride 2 mEq
(149 mg); methyparaben 0.05%;
polyoxyethylene 9.00%; Water for
Injection q.s. HCl and/or KOH may
have been added for pH adjustment.
4000 mOsmol/L (calc.)
Contains no more than 100 mcg/L of
aluminum.

Usual Dosage: See insert.
Store at 20° to 25°C (68° to 77°F) [see
USP Controlled Room Temperature].
Vial stoppers do not contain natural
rubber latex.



401702H

LOT/EXP

6009120

01/17



3 63323-967-30 7

116-5745
POTASSIUM
050115
I#5113593
25 2 MEQ

5246

5

C

NDC 63323-967-30 96730

POTASSIUM CHLORIDE

For Injection Concentrate, USP

Concentrate Must Be
Diluted Before Use

2 mEq/mL (60 mEq)

30 mL
Multiple Dose Vial

Rx only

**MUST BE DILUTED PRIOR
TO IV ADMINISTRATION**

Sterile, Nonpyrogenic

Each mL contains:
Potassium chloride 2 mEq
(149 mg); methyparaben 0.05%;
polyoxyethylene 9.00%; Water for
Injection q.s. HCl and/or KOH may
have been added for pH adjustment.
4000 mOsmol/L (calc.)
Contains no more than 100 mcg/L of
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Usual Dosage: See insert.
Store at 20° to 25°C (68° to 77°F) [see
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Vial stoppers do not contain natural
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401702H

LOT/EXP

6009122

01/17



3 63323-967-30 7

116-5745
POTASSIUM
050115
I#5113593
25 2 MEQ

5246

5

C

NDC 63323-967-30 96730

POTASSIUM CHLORIDE

For Injection Concentrate, USP

Concentrate Must Be
Diluted Before Use

2 mEq/mL (60 mEq)

30 mL
Multiple Dose Vial

Rx only

**MUST BE DILUTED PRIOR
TO IV ADMINISTRATION**

Sterile, Nonpyrogenic

Each mL contains:
Potassium chloride 2 mEq
(149 mg); methyparaben 0.05%;
polyoxyethylene 9.00%; Water for
Injection q.s. HCl and/or KOH may
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4000 mOsmol/L (calc.)
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401702H

LOT/EXP

6009123

01/17



3 63323-967-30 7

116-5745
POTASSIUM
050115
I#5113593
25 2 MEQ

5246

5

C

U.S. Department of Justice / Drug Enforcement Administration
CONTROLLED SUBSTANCES IMPORT / EXPORT DECLARATION
(Read Instructions on reverse before completing)

OMB APPROVAL
No. 1117-0009
EXPIRATION DATE: 9/30/2016
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U.S. CUSTOMS
CERTIFICATION

Date of Departure/Arrival

Date of Certification

Signature of Customs Official

DEA Transaction ID

IMPORTER/EXPORTER (Name and Address)

Nebraska State Penitentiary
4201 14th South Street
Lincoln, NE 68502

BROKER OR FORWARDING AGENT, IF USED (Name and Address)

Not Applicable

DEA REGISTRATION NO. 0414184

2. CONTROLLED SUBSTANCES TO BE IMPORTED OR EXPORTED

2a. NAME AND QUANTITY OF DRUG OR PREPARATION
(Enter names as shown on labels; numbers and sizes of packages; strength of tablets, capsules, etc., CSA Drug Code and NDC Number)

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Quantity: 1,000 vials

CSA Drug Code: 2100

NDC Number : G2100-0300-**

2b. CONTROLLED SUBSTANCE CONTENT OF DRUG OR PREPARATION expressed as acid, base or alkaloid. (Enter names of controlled substances contained in the drug, compound, or preparation)

Sodium Thiopental

1,000 Vials multiplied by 1 gram Sodium Thiopental = 1,000 grams Sodium Thiopental

No Conversion Factor Applies to Sodium Thiopental per DEA instruction.

2c. DATE IMPORTED/EXPORTED AND ACTUAL QUANTITY
(Completed by registrant at time of transaction)

3a. ☒ FOREIGN (for U.S. import) ☐ DOMESTIC (for U.S. export) PORT OF EXPORTATION AND APPROX. DEPARTURE DATE
Kolkata, India June 18, 2015 (Approximate)

3b. ☐ FOREIGN (for U.S. export) ☒ DOMESTIC (for U.S. import) PORT OF IMPORTATION AND APPROX. ARRIVAL DATE
Omaha, NE June 21, 2015 (Approximate)

4a. MODE OF TRANSPORT; NAME OF VESSEL / CARRIER (if known)
Fedex

4b. NAME OF ALL INTERMEDIATE CARRIERS
N/A

5. NAME AND ADDRESS OF FOREIGN CONSIGNEE/CONSIGNOR

Harris Pharma LLP
Level 8, RDB Boulevard, Plot K1, Sector V, Salt Lake City
Kolkata 700091, West Bengal, India

I hereby certify that the substance(s) listed in Section 2 are to be ☒ Imported (conform to 21 U.S.C. § 952(b)) ☐ Exported (conform to 21 U.S.C. § 953(e)) and are intended for ☐ Medical, ☐ Scientific, or ☒ Other legitimate uses (attach explanation for other legitimate use).

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SIGNATURE OF AUTHORIZED INDIVIDUAL OF IMPORTER / EXPORTER, BROKER OR FORWARDING AGENT

DATE
5/29/2015

NAME OF FIRM AND TELEPHONE NUMBER

State of Nebraska Department of Corrections
(402) 479-5630
E-mail: scott.frakes@nebraska.gov

Print Name: Scott Frakes

STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Scott R. Frakes

Director



Pete Ricketts
Governor

May 29, 2015

Drug Enforcement Agency
Attention: ODGI Import/Export Unit (Ms. Kara Sweeney)
8701 Morrisette Drive
Springfield, Virginia 22152

RE: Form 236 Legitimate Use Declaration

To Whom It May Concern,

I, Scott R. Frakes, as Director of the Nebraska Department of Correctional Services do hereby notify the United States Drug Enforcement Agency that I have sought the importation of Sodium Thiopental pursuant to DEA Form 236. The shipment of 1,000 vials containing 1 gram each of Sodium Thiopental will solely be used for the legitimate purpose of the Nebraska Department of Correctional Services carrying out lethal injections for those persons sentenced to death in the State of Nebraska.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott R. Frakes", is written over a circular stamp.

Scott R. Frakes, Director

Nebraska Department of Correctional Services



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

RECEIVED

Food and Drug Administration
Rockville MD 20857

JUN 01 2015

May 28, 2015

Scott R. Franks, Director
Nebraska Dept. of Correctional Services
P.O. Box 94661
Lincoln, NE 68509-4661
(402) 471-2654

NDCS Director's Office

Re: Media reports about recent purchase of imported sodium thiopental

Dear Mr. Franks,

I am writing you today because of media reports that the state of Nebraska has recently purchased and perhaps received sodium thiopental from an overseas source for use by the Nebraska Department of Correctional Services.

On April 10, 2012, I sent a letter to your predecessor, Robert Houston, informing him of the U.S. District Court for the District of Columbia decision in *Beatty v. FDA*, 853 F. Supp. 2d 30 (D.D.C. 2012), *aff'd in part, rev'd in part sub nom. Cook v. FDA*, 733 F.3d 1 (D.C. Cir. 2013). The District Court's June 2012 Order, which modified the Court's March 2012 Order, permanently enjoined FDA from permitting the entry of, or releasing any future shipments of, foreign manufactured sodium thiopental that appears to be misbranded or an unapproved new drug in violation of 21 U.S.C. § 355. Please note that there is no FDA approved application for sodium thiopental, and it is illegal to import an unapproved new drug into the United States.

A recent ABC News article indicated that Nebraska Governor, Pete Ricketts, has recently purchased sodium thiopental from an overseas source. The article also indicates that, at that time, you had not yet received any shipments of sodium thiopental.

While our records do not indicate any imported shipments of sodium thiopental destined for your facility or other Nebraska state agency, we remind you of the applicable legal framework.

If you have any questions, I can be reached at (301) 796-6673 or by e-mail at Domenic.Veneziano@fda.hhs.gov.

Respectfully,

Thaddeus Poplawski -S

Digitally signed by Thaddeus Poplawski -S
DN: c=US, o=U.S. Government, ou=HHS, ou=FDA, ou=People,
0.9.2342.19200300.100.1.1=2000107790, cn=Thaddeus
Poplawski -S
Date: 2015.05.28 12:19:16 -04'00'

CAPT Domenic J. Veneziano,
Director, Division of Import Operation
United States Public Health Service

May 28, 2015 - Scott R. Franks

2

Enclosure: Order, *Beatty v. FDA*, No. 1:11-cv-00289 (RJL) (D.D.C. Mar 27, 2012)

~~Order, *Beatty v. FDA*, No. 1:11-cv-00289 (RJL) (D.D.C. June 22, 2012)~~

ABC news article dated 5/14/2015

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Donald Edward BEATY, Daniel Wayne COOK,
Eric J. KING, Brett Patrick PENSINGER, and
Stephen Michael WEST,

Plaintiffs,

v.

FOOD AND DRUG ADMINISTRATION, UNITED
STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES, Kathleen SEBELIUS, and
Margaret A. HAMBURG, M.D.,

Defendants.

Civil Action No. 1:11-cv-00289 (RJL)

ECF Case

FILED

JUN 22 2012

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

ORDER

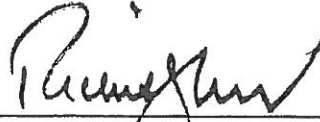
Upon consideration of the Unopposed Motion to Dismiss Count II, Enter Final Judgment,
and Make Certain Modifications to the Court's Injunction filed by Plaintiffs in the above-
captioned matter, it is this 22 day of June, 2012,

ORDERED, that the Motion is GRANTED, and it is further,

ORDERED, pursuant to Federal Rule of Civil Procedure 41(a)(2) that Count II of
Plaintiffs' First Amended Complaint is dismissed without prejudice; and it is further,

ORDERED, that the sentence of the Order dated March 27, 2012 (Dkt. No. 24),
stating that FDA is "permanently enjoined from permitting the entry of, or releasing
any future shipments of, foreign manufactured thiopental into interstate commerce" is
hereby modified to read, "permanently enjoined from permitting the entry of, or
releasing any future shipments of, foreign manufactured thiopental that appears to be
misbranded or in violation of 21 U.S.C. §§ 355," and it is further,

ORDERED, pursuant to Federal Rule of Civil Procedure 54(b) that the Clerk shall enter final judgment disposing of this action in its entirety.

A handwritten signature in black ink, appearing to read "Richard J. Leon", written over a horizontal line.

Hon. Richard J. Leon
United States District Court Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DONALD EDWARD BEATY, *et al.*,

Plaintiffs,

v.

Civil Case No. 11-289 (RJL)

FOOD AND DRUG
ADMINISTRATION,

and

U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

and

KATHLEEN SEBELIUS, in her official
capacity as Secretary of the U.S.
Department of Health and Human
Services,

and

MARGARET A. HAMBURG, M.D., in
her official capacity as Commissioner of
Food and Drugs,

Defendants.

ORDER

(March 27, 2012)

For the reasons set forth in the Memorandum Opinion entered this 27th day of March, 2012, it is hereby

ORDERED that plaintiffs' Motion for Summary Judgment and Declaratory Relief on Counts I and III [#12] is **GRANTED**; and it is further

ORDERED that the defendants' Motion to Dismiss and/or for Summary Judgment [#13] is **DENIED**; and it is further

DECLARED, pursuant to 28 U.S.C. § 2201(a), that


1. the foreign manufactured thiopental (or "thiopental") imported by the importing States (e.g. Arizona, California, South Carolina, Georgia, and Tennessee) is a misbranded drug and an unapproved new drug within the meaning of the FDCA; and
2. as such, this thiopental cannot lawfully be introduced or delivered for introduction into interstate commerce or lawfully be imported into the United States; and
3. defendants' recent actions allowing such thiopental to enter the United States were each contrary to law, arbitrary, capricious, and an abuse of discretion under the APA; and, in particular,
4. defendants' January 4, 2011 announcement that they will allow future shipments of such thiopental to enter the United States is contrary to law, arbitrary, capricious, and an abuse of discretion under the APA; accordingly

IT IS HEREBY ORDERED that the FDA:

1. immediately notify any and all state correctional departments which it has reason to believe are still in possession of any foreign manufactured thiopental that the use of such drug is prohibited by law and that, that thiopental must be returned immediately to the FDA; and
2. be permanently enjoined from permitting the entry of, or releasing any future shipments of, foreign manufactured thiopental into interstate commerce; and

IT IS FURTHER ORDERED that the parties are hereby directed to meet and confer to determine whether further litigation is necessary, or proper, with respect to the remaining count in this Complaint.

SO ORDERED.


RICHARD J. LEON
United States District Judge

Governor says Nebraska has ordered new death penalty drugs

By GRANT SCHULTE

May. 14, 2015 10:25 PM EDT

LINCOLN, Neb. (AP) — Nebraska's Republican governor is taking new steps to resume executions in a state that hasn't imposed the death penalty since 1997, as lawmakers look seriously at abolishing capital punishment.

Gov. Pete Ricketts said Thursday evening that state officials have bought all three drugs required to carry out executions. Nebraska lost its ability to execute prisoners when its supply of sodium thiopental, a required lethal injection drug, expired in December 2013.

The announcement comes one day before lawmakers are scheduled to debate a death penalty repeal measure that has gained more support than usual. The bill won first-round approval with a veto-proof majority in April, but two more votes are required before it goes to Ricketts, a death-penalty supporter.

Some opponents have argued that Nebraska should abolish capital punishment because it has only wasted money and created a false promise for victims' families. The state hasn't executed anyone since 1997, and some prisoners have been on death row for decades.

Nebraska has only carried out four executions since 1973, partly because of repeated legal challenges.

Ricketts and his corrections director, Scott Frakes, said the state now possesses one of the three lethal injection drugs that state law requires for executions and will receive the other two in the near future. Nebraska Attorney General Doug Peterson has said three of Nebraska's 11 death-row inmates have exhausted all of their appeals.

"The functionality of the death penalty in Nebraska has been a management issue that I have promised to resolve," Ricketts said.

Ricketts said the department has already obtained potassium chloride, a drug that stops the heart, and has bought the other two drugs — sodium thiopental and pancuronium bromide — from a distributor in West Bengal, India. Sodium thiopental serves as an anesthetic, and pancuronium bromide is a muscle relaxant that induces paralysis.

Ricketts spokesman Taylor Gage said the state ordered the drugs over the past few weeks from HarrisPharma, a distributor that has sold to state officials before. The last purchase was made this week.

Defense attorneys for Nebraska's death-row inmates have raised legal questions about the company before. One lawyer argued that Chris Harris, the company's owner, sold drugs that were only meant to be used as testing samples, and was not authorized to do so.

Because he was not allowed to do so, the defense attorney argued that the drug was stolen property and Nebraska shouldn't be allowed to use it in executions.

Nebraska Solicitor General Jim Smith, who handled previous death penalty cases, said those arguments were later rejected. The Nebraska Supreme Court ruled that the argument wasn't a valid challenge in a death penalty case under state law.

From: David Perez <dp@adpen.com>
Sent: Thursday, May 21, 2015 1:38 PM
To: Frakes, Scott
Subject: RE: Information

Hi Scott, we found two methods by USP to perform an Assay on both chemicals using HPLC. The Thiopental Sodium we can do no problem, the Pancuronium we cannot do in our Pharma lab as it requires an HPLC with a special detector called ,(Conductivity with suppression), which we don't currently have. It can be done in our Agrochemical lab using LCMS/MS instrumentation but it would need to be optimized to do this analysis with method modification which would create a lot of downtime. We currently have the LCMS/MS running 24/7 as we are running 100's of samples a day.

If you would like for us just to do the Thiopental let me know and I can provide you with a quote. Sorry I could not be of more assistance.

Best regards,

David Perez
ADPEN Laboratories Inc.
Operations/HR Manager
P: 904-645-9169 ext: 205
F: 904-641-8423
www.ADPEN.com

From: Frakes, Scott [<mailto:scott.frakes@nebraska.gov>]
Sent: Wednesday, May 20, 2015 3:51 PM
To: David Perez
Subject: Information

As we discussed, the drugs that I need tested (verify that the contents match the container label) are Sodium Thiopental, USP 1gm vial, and Pancuronium Bromide, 2mg/2ml ampule. Thank you for looking into this for me, I look forward to hearing back from you.

From: Blum, Kathy
Sent: Friday, May 29, 2015 3:51 PM
To: 'kara.a.sweeney@usdoj.gov'
Subject: FW: Message from "RNP0026736FC715"
Attachments: 20150529154048846.pdf

Ms. Sweeney,

Attached is the cancellation of DEA Form 236 previously sent to you by the Nebraska Department of Correctional Services. We have learned that the address for the foreign consignee/consignor in box #5 has changed. The Nebraska Department of Correctional Services will be sending you a new DEA Form 236 with an updated address for the foreign exporter.

Kathleen A. Blum
Associate Legal Counsel
Nebraska Department of Correctional Services
Phone: 402-479-5901
Fax: 402-479-5623
E-mail: kathy.blum@nebraska.gov

U.S. Department of Justice / Drug Enforcement Administration
CONTROLLED SUBSTANCES IMPORT / EXPORT DECLARATION

(Read Instructions on reverse before completing)

OMB APPROVAL
No. 1117-0009
EXPIRATION DATE: 9/30/2016
See reverse for Privacy Act

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☐ EXPORT DECLARATION Nonnarcotic Substances in Schedules III, and IV and all substances in Schedule V

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CERTIFICATION

Date of Departure/Arrival

IMPORTER/EXPORTER (Name and Address)

Nebraska State Penitentiary
4201 14th South Street
Lincoln, NE 68502

BROKER OR FORWARDING AGENT, IF USED (Name and Address)

Not Applicable

Date of Certification

Signature of Customs Official

DEA Transaction ID

DEA REGISTRATION NO. 0414184

2. CONTROLLED SUBSTANCES TO BE IMPORTED OR EXPORTED

2a. NAME AND QUANTITY OF DRUG OR PREPARATION
(Enter names as shown on labels; numbers and sizes of packages; strength of tablets, capsules, etc., CSA Drug Code and NDC Number)

Sodium Thiopental 1gm Vial

Quantity: 1,000 Vials

CSA Drug Code: 2100

NDC Number: G2100-0300-**

2b. CONTROLLED SUBSTANCE CONTENT OF DRUG OR PREPARATION expressed as acid, base or alkaloid. (Enter names of controlled substances contained in the drug, compound, or preparation)

Sodium Thiopental

1,000 Vials multiplied by 1 gram Sodium Thiopental = 1,000 grams Sodium Thiopental

No Conversion Factor Applies to Sodium Thiopental per DEA Instruction.

2c. DATE IMPORTED/EXPORTED AND ACTUAL QUANTITY
(Completed by registrant at time of transaction)

Cancelled
5-29-15

3a. ☒ FOREIGN (for U.S. Import) ☐ DOMESTIC (for U.S. export) PORT OF EXPORTATION AND APPROX. DEPARTURE DATE

Kolkata, India June 15, 2015 (Approximate)

3b. ☐ FOREIGN (for U.S. export) ☒ DOMESTIC (for U.S. Import) PORT OF IMPORTATION AND APPROX. ARRIVAL DATE

Omaha, NE June 18, 2015 (Approximate)

4a. MODE OF TRANSPORT; NAME OF VESSEL / CARRIER (if known)

Fedex

4b. NAME OF ALL INTERMEDIATE CARRIERS

N/A

5. NAME AND ADDRESS OF FOREIGN CONSIGNEE/CONSIGNOR

Harris Pharma LLP
145 B Bosepukur Road
Kolkata 700039, West Bengal, India

I hereby certify that the substance(s) listed in Section 2 are to be ☒ Imported (conform to 21 U.S.C. § 952(b)) ☐ Exported (conform to 21 U.S.C. § 953(e)) and are intended for ☐ Medical, ☐ Scientific, or ☒ Other legitimate uses (attach explanation for other legitimate use).

☐ The above named substances are to be Re-Exported (Attach documentation per Title 21, CFR 1312.27) to (list countries):

If the form is being used as an "Export Declaration", attach documentation that the consignee is authorized under the laws and regulations of the country of destination to receive the controlled substances. If the controlled substances are being re-exported from the first country to second countries, attach documentation that the consignee in the country of ultimate destination is authorized under the laws and regulations of that country to receive the controlled substances.

SIGNATURE OF AUTHORIZED INDIVIDUAL OF IMPORTER / EXPORTER; BROKER OR FORWARDING AGENT

DATE
5/26/2015

NAME OF FIRM AND TELEPHONE NUMBER

State of Nebraska Department of Corrections
(402) 479-5630
E-mail: scott.frakes@nebraska.gov

Print Name: Scott Frakes

From: Frakes, Scott
Sent: Friday, May 29, 2015 4:56 PM
To: chrisharris@harrispharmallp.com
Subject: Information
Attachments: cook v. FDA.pdf

Please give me a call when you have time to discuss.

From: chrisharris@harrispharmallp.com
Sent: Friday, May 29, 2015 5:24 PM
To: Frakes, Scott
Subject: Re: Information

Hi Scott,

Will give you a call tomorrow as I don't have network coverage here. Will be back tomorrow.

Regards,
Chris

----- Reply message -----

From: "Frakes, Scott" <scott.frakes@nebraska.gov>
To: "chrisharris@harrispharmallp.com" <chrisharris@harrispharmallp.com>
Subject: Information
Date: Sat, May 30, 2015 3:25 AM

Please give me a call when you have time to discuss.

From: Frakes, Scott
Sent: Friday, May 29, 2015 5:31 PM
To: 'chrisharris@harrispharmallp.com'
Subject: RE: Information

Thanks

From: chrisharris@harrispharmallp.com [<mailto:chrisharris@harrispharmallp.com>]
Sent: Friday, May 29, 2015 5:24 PM
To: Frakes, Scott
Subject: Re: Information

Hi Scott,

Will give you a call tomorrow as I don't have network coverage here. Will be back tomorrow.

Regards,
Chris

----- Reply message -----

From: "Frakes, Scott" <scott.frakes@nebraska.gov>
To: "chrisharris@harrispharmallp.com" <chrisharris@harrispharmallp.com>
Subject: Information
Date: Sat, May 30, 2015 3:25 AM

Please give me a call when you have time to discuss.

From: Frakes, Scott
Sent: Monday, June 01, 2015 7:35 AM
To: Sweeney, Kara A.
Cc: Boyer, Mark; Blum, Kathy
Subject: RE: Cannot Process DEA 236 form

Thank you – we will get this resolved ASAP.

From: Sweeney, Kara A. [<mailto:Kara.A.Sweeney@usdoj.gov>]
Sent: Monday, June 01, 2015 7:32 AM
To: Frakes, Scott
Subject: Cannot Process DEA 236 form
Importance: High

Mr. Frakes,

We can't process the DEA Import 236 form received for Sodium Thipental because the DEA Registration on this form is incorrect. The DEA Registration # starts with "RN" (RNXXXXXXX) – please correct this, date and initial the change, then scan and email the amendment form to me so that we may process this request.

Thanks,
Kara

*Kara Sweeney
Program Analyst
Drug Enforcement Administration
Office of Diversion Control
Import/Export Unit
202-307-4989*

From: Blum, Kathy
Sent: Monday, June 01, 2015 10:01 AM
To: 'Sweeney, Kara A.'
Cc: Frakes, Scott
Subject: RE: Message from "RNP0026736FC715"
Attachments: 20150601095252544.pdf

Kara,

As you requested, attached is the corrected DEA form 236. We overnighted the original form to you on Friday May 29, 2015. The Nebraska Department of Correctional Services Director Scott Frakes has initialed the corrected DEA Registration number as you instructed.

Thanks,

Kathleen A. Blum
Associate Legal Counsel
Nebraska Department of Correctional Services
Phone: 402-479-5901
Fax: 402-479-5623
E-mail: kathy.blum@nebraska.gov

-----Original Message-----

From: Sweeney, Kara A. [<mailto:Kara.A.Sweeney@usdoj.gov>]
Sent: Monday, June 01, 2015 7:34 AM
To: Blum, Kathy
Subject: RE: Message from "RNP0026736FC715"
Importance: High

Kathy,

The DEA Registration # on the DEA 236 form is also incorrect. The DEA Registration # starts with "RN" please correct this as well.

Thanks,
Kara

-----Original Message-----

From: Blum, Kathy [<mailto:Kathy.Blum@nebraska.gov>]
Sent: Friday, May 29, 2015 4:52 PM
To: Sweeney, Kara A.
Subject: FW: Message from "RNP0026736FC715"

Ms. Sweeney,

Attached is the cancellation of DEA Form 236 previously sent to you by the Nebraska Department of Correctional Services. We have learned that the address for the foreign consignee/consignor in box #5 has changed. The Nebraska Department of Correctional Services will be sending you a new DEA Form 236 with an updated address for the foreign exporter.

Kathleen A. Blum
Associate Legal Counsel
Nebraska Department of Correctional Services
Phone: 402-479-5901
Fax: 402-479-5623
E-mail: kathy.blum@nebraska.gov

U.S. Department of Justice / Drug Enforcement Administration
CONTROLLED SUBSTANCES IMPORT / EXPORT DECLARATION
(Read Instructions on reverse before completing)

OMB APPROVAL
No. 1117-0009
EXPIRATION DATE: 9/30/2016
See reverse for Privacy Act

1. CHECK ☒ IMPORT DECLARATION Nonnarcotic Substances in Schedules III, IV, V
ONE ☐ EXPORT DECLARATION Nonnarcotic Substances in Schedules III, and IV and all substances in Schedule V

U.S. CUSTOMS
CERTIFICATION

Date of Departure/Arrival

Date of Certification

Signature of Customs Official

DEA Transaction ID

IMPORTER/EXPORTER (Name and Address)

Nebraska State Penitentiary
4201 14th South Street
Lincoln, NE 68502

BROKER OR FORWARDING AGENT, IF USED (Name and Address)

Not Applicable

DEA REGISTRATION NO. ~~0414101~~ **RN0414184**

2. CONTROLLED SUBSTANCES TO BE IMPORTED OR EXPORTED

2a. NAME AND QUANTITY OF DRUG OR PREPARATION
(Enter names as shown on labels; numbers and sizes of packages; strength of tablets, capsules, etc., CSA Drug Code and NDC Number)

Sodium Thiopental 1gm Vial

Quantity: 1,000 vials

CSA Drug Code: 2100

NDC Number: G2100-0300-**

2b. CONTROLLED SUBSTANCE CONTENT OF DRUG OR PREPARATION expressed as acid, base or alkaloid. (Enter names of controlled substances contained in the drug, compound, or preparation)

Sodium Thiopental

1,000 Vials multiplied by 1 gram Sodium Thiopental = 1,000 grams Sodium Thiopental

No Conversion Factor Applies to Sodium Thiopental per DEA instruction.

2c. DATE IMPORTED/EXPORTED AND ACTUAL QUANTITY
(Completed by registrant at time of transaction)

3a. ☒ FOREIGN (for U.S. Import) ☐ DOMESTIC (for U.S. export) PORT OF EXPORTATION AND APPROX. DEPARTURE DATE
Kolkata, India June 18, 2015 (Approximate)

3b. ☐ FOREIGN (for U.S. export) ☒ DOMESTIC (for U.S. Import) PORT OF IMPORTATION AND APPROX. ARRIVAL DATE
Omaha, NE June 21, 2015 (Approximate)

4a. MODE OF TRANSPORT; NAME OF VESSEL / CARRIER (if known)
Fedex

4b. NAME OF ALL INTERMEDIATE CARRIERS
N/A

5. NAME AND ADDRESS OF FOREIGN CONSIGNEE/CONSIGNOR

Harris Pharma LLP
Level 8, RDB Boulevard, Plot K1, Sector V, Salt Lake City
Kolkata 700091, West Bengal, India

I hereby certify that the substance(s) listed in Section 2 are to be ☒ Imported (conform to 21 U.S.C. § 952(b)) ☐ Exported (conform to 21 U.S.C. § 953(e)) and are intended for ☐ Medical, ☐ Scientific, or ☒ Other legitimate uses (attach explanation for other legitimate use).

☐ The above named substances are to be Re-Exported (Attach documentation per Title 21, CFR 1312.27) to (list countries):

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SIGNATURE OF AUTHORIZED INDIVIDUAL OF IMPORTER / EXPORTER, BROKER OR FORWARDING AGENT

DATE
5/29/2015

NAME OF FIRM AND TELEPHONE NUMBER
State of Nebraska Department of Corrections
(402) 479-5630
E-mail: scott.frakes@nebraska.gov

Print Name: *Scott Frakes*

STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Scott R. Frakes

Director



Pete Ricketts
Governor

May 29, 2015

Drug Enforcement Agency
Attention: ODGI Import/Export Unit (Ms. Kara Sweeney)
8701 Morrisette Drive
Springfield, Virginia 22152

RE: Form 236 Legitimate Use Declaration

To Whom It May Concern,

I, Scott R. Frakes, as Director of the Nebraska Department of Correctional Services do hereby notify the United States Drug Enforcement Agency that I have sought the importation of Sodium Thiopental pursuant to DEA Form 236. The shipment of 1,000 vials containing 1 gram each of Sodium Thiopental will solely be used for the legitimate purpose of the Nebraska Department of Correctional Services carrying out lethal injections for those persons sentenced to death in the State of Nebraska.

Sincerely,

Scott R. Frakes, Director

Nebraska Department of Correctional Services

From: Frakes, Scott
Sent: Tuesday, June 02, 2015 2:52 PM
To: Blum, Kathy
Cc: Boyer, Mark
Subject: Fwd: DEA Import 236 Form

See if you figure this out. See you tomorrow.

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: "Sweeney, Kara A." <Kara.A.Sweeney@usdoj.gov>
Date: 06/02/2015 2:39 PM (GMT-06:00)
To: "Frakes, Scott" <scott.frakes@nebraska.gov>
Subject: DEA Import 236 Form

Scott,

The DEA Import 236 form submitted says, "No Conversion Factor Applies to Sodium Thiopental per DEA Instruction" – please explain as our system has a 92% conversion factor for Sodium Thiopental making the base weight in grams being imported 920 grams.

Thanks,
Kara

*Kara Sweeney
Program Analyst
Drug Enforcement Administration
Office of Diversion Control
Import/Export Unit
202-307-4989*

From: Boyer, Mark
Sent: Tuesday, June 02, 2015 3:11 PM
To: Kara.A.Sweeney@usdoj.gov
Cc: Frakes, Scott; Blum, Kathy
Subject: RE: DEA Import 236 Form

Kara,

I attempted to speak with Alan Drumheller at the phone number you provided (202) 307-8600. I was referred to another DEA staff member due to the fact Mr. Drumheller was not in the office on the day of the telephone call. This DEA employee advised that Sodium Thiopental did not have a conversion factor and was not a substance that was capable of being converted into its base form. Please advise on how you wish us to proceed in this matter.

Mark Boyer
NDCS Legal Counsel

From: Frakes, Scott
Sent: Tuesday, June 02, 2015 2:52 PM
To: Blum, Kathy
Cc: Boyer, Mark
Subject: Fwd: DEA Import 236 Form

See if you figure this out. See you tomorrow.

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Thanks,
Kara

Kara Sweeney
Program Analyst
Drug Enforcement Administration
Office of Diversion Control
Import/Export Unit
202-307-4989

From: Sweeney, Kara A. <Kara.A.Sweeney@usdoj.gov>
Sent: Thursday, June 04, 2015 6:50 AM
To: Boyer, Mark
Cc: Frakes, Scott; Blum, Kathy
Subject: RE: DEA Import 236 Form

ODE confirmed that it is 100% for Sodium Thiopental. Mark Via will coordinate this correction in our system with our IT Department. Thank you!

The assigned DEA Transaction # for this Import Request is #5159973.

- Please write the DEA Transaction # on copies 1, 2, 3, and 5 of the 236 forms (DEA Transaction ID box **above** box 2c)
- Once shipped/received please complete box 2c on the DEA 236 Form with the actual date and actual quantity received/shipped (the base in grams per line item on the declaration)
- Scan and email the DEA 236 form with the completed box 2c to the DEA Controlled Substances email box: CSIMEX@usdoj.gov

*Kara Sweeney
Program Analyst
Drug Enforcement Administration
Office of Diversion Control
Import/Export Unit
202-307-4989*

From: Boyer, Mark [<mailto:mark.boyer@nebraska.gov>]
Sent: Tuesday, June 02, 2015 4:11 PM
To: Sweeney, Kara A.
Cc: Frakes, Scott; Blum, Kathy
Subject: RE: DEA Import 236 Form

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Mark Boyer
NDCS Legal Counsel

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Cc: Boyer, Mark
Subject: Fwd: DEA Import 236 Form

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To: "Frakes, Scott" <scott.frakes@nebraska.gov>

Subject: DEA Import 236 Form

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Kara

Kara Sweeney

Program Analyst

Drug Enforcement Administration

Office of Diversion Control

Import/Export Unit

202-307-4989