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Topeka, KS 66612



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Alexandra Blasi, Executive Secretary

Laura Kelly, Governor

August 8, 2022

Mother Dirt  
Attn: Douglas P Reffue  
281-283 Franklin St.  
Boston, MA 02110

RE: Case No. 22-136

To whom it may concern:

Enclosed you will find a Summary Order issued by the Kansas Board of Pharmacy (Board) in the above-referenced matter. Please read the order in its entirety.

If you disagree with the findings of fact, you have the right to request a hearing. Instructions for filing a written request are included under the "Notices" section of the order. Hearings are held before the full Board during their regularly scheduled quarterly meetings.

According to KSA 65-1627h, the Board is required to recoup the costs of administrative hearings when the decision is adverse to the licensee. These costs may include charges for services rendered by the Board's disciplinary counsel, an administrative law judge, and, if applicable, a court reporter.

If you have any questions, feel free to contact the Board at [Pharmacy.Compliance@ks.gov](mailto:Pharmacy.Compliance@ks.gov).

Sincerely,

Kansas Board of Pharmacy

Enclosure

BEFORE THE KANSAS STATE BOARD OF PHARMACY

|                  |   |                 |
|------------------|---|-----------------|
| In the Matter of | ) |                 |
|                  | ) | Case No. 22-136 |
| Mother Dirt      | ) |                 |
|                  | ) |                 |
|                  | ) |                 |
| <u>Applicant</u> | ) |                 |

**SUMMARY ORDER OF DENIAL**

NOW, on this 8th day of August, 2022, comes before the Kansas Board of Pharmacy (the “Board”), through its Executive Secretary, the matter of Mother Dirt ("Applicant"), for application as a manufacturer in the state of Kansas.

Pursuant to the authority granted to the Board by the Kansas Pharmacy Act, K.S.A. 65-1625, *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Summary Order of Denial in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions, and order:

FINDINGS OF FACT

1. On March 10, 2021, the Board received Applicant’s application for registration as a wholesale distributor in the State of Kansas.
  
2. On May 11, 2021, the Board sent Applicant an email requesting several required information items that were missing from the application and indicating the following: “We reviewed your application for a distributor license and noticed that you are a Virtual facility. All Virtual Facilities are required to complete a BA-04 application (attached) and there is no additional fee. Please send via email.”
  
3. On May 18, 2021, the Board received Applicant’s application for registration as a

manufacturer in the State of Kansas (“Applicant’s Application”).

4. On February 16, 2022, the Board sent Applicant an email requesting required information items that was still missing from Applicant’s Application.

5. On March 6, 2022, the Board sent Applicant a third email requesting required information items that were still missing from Applicant’s Application.

6. On June 23, 2021, the Board sent a final letter to Applicant’s address of record requesting the required information items that were still missing from Applicant’s Application, specifically detailed ownership forms, and providing a response deadline of July 31, 2022.

7. To date, the Board has not received the required application documents or any further correspondence from Applicant.

#### CONCLUSIONS OF LAW

1. Pursuant to K.S.A. 65-1627(f)(8), the Board may deny the application of any manufacturer upon a finding that the manufacturer has failed to furnish to the Board any information legally requested by the Board.

2. Pursuant to K.S.A. 65-1645(a) application for registration or permits under K.S.A. 65-1643, and amendments thereto, shall be made on a form prescribed and furnished by the Board. Applications for registration shall contain such information as may be required by the Board in accordance with the provisions of K.S.A. 65-1643d, and amendments thereto.

3. Pursuant to K.S.A. 65-1643(p), it shall be unlawful for any person to distribute drugs or devices into Kansas as an out-of-state manufacturer of such drugs or devices without first obtaining a registration as a manufacturer from the Board.

4. Pursuant to K.S.A. 65-1643d, the Board shall require an applicant for registration as a manufacturer or an applicant for renewal of such a registration to provide the following

information: (1) the name, full business address and telephone number of the applicant; (2) all trade or business names used by the applicant; (3) all addresses, telephone numbers, and the names of contact persons for all facilities used by the applicant for the storage, handling and distribution of prescription drugs or devices; (4) the type of ownership or operation of the applicant; (5) the name of the owner or operator of the applicant, including; (A) If an individual, the name of the individual; (B) if a partnership, the name of each partner and the name of the partnership; (C) if a corporation, the name and title of each corporate officer and director of the corporation and the name of the state of incorporation; or (D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity; and (6) any other information as the Board deems appropriate.

5. Pursuant to K.S.A. 65-1643d(c), the Board may deny an initial application for registration or application for renewal of a registration of a manufacturer if the Board determines that the granting of such registration would not be in the public interest.

6. The Board's application for registration as a manufacturer requires S-310, S-320 or S-330 ownership forms and/or business organization chart, along with supporting ownership documents (refer to top of individual forms for requirement).

7. Applicant failed to provide the following in conjunction with Applicant's Application: S-310, S-320 or S-330 ownership forms for S.C. Johnson & Son Limited. Applicant's failure to provide the Board with the required application information is a basis to deny Applicant's Application pursuant to K.S.A. 65-1645(a) and 65-1627(a).

8. Applicant failed, after multiple emails and letter from the Board, to provide the lawfully requested application information.

9. Applicant's failure to supply the Board with the requested documentation is a basis to deny Applicant's Application pursuant to K.S.A. 65-1627(f)(8).

**ORDER**

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application is hereby DENIED.

**NOTICES**

Respondent is hereby notified as follows:

1. Respondent may request a hearing pursuant to the Kansas Administrative Procedure Act by filing a written request with the Kansas Board of Pharmacy, 800 SW Jackson, Suite 1414, Topeka, KS 66612-1231, within 15 days after service of this Order. If the outcome of the hearing is adverse to Respondent, costs of the proceedings shall be charged to Respondent.

2. If a hearing is not requested as described above, the Order shall become a final order of the Board, effective upon the expiration of the time to request a hearing.

3. Within 15 days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

4. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review is:

Alexandra Blasi  
Executive Secretary  
Kansas Board of Pharmacy  
800 SW Jackson, Suite 1414  
Topeka, KS 66612

IT IS SO ORDERED.

8/8/2022

\_\_\_\_\_  
Date



\_\_\_\_\_  
Alexandra Blasi, JD, MBA  
Executive Secretary  
Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 8th day of August, 2022, deposit in business mail a copy of the foregoing Summary Order, which is then placed in the United States Mail, postage prepaid, properly addressed to the following:

Mother Dirt  
281-283 Franklin Street  
Boston MA 02110



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Kansas Board of Pharmacy Staff