Republic of the Philippines
Office of the President
DANGEROUS DRUGS BOARD
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BOARD RESOLUTION NO. 120
Series of 2012

SUBJECT: RELEASE OF THE JUNE 29, 2012 SHIPMENT OF LIFELINE DIAGNOSTICS SUPPLIES, INC. AND CLEARING THE SAME FROM ANY FURTHER LIABILITY

WHEREAS, pursuant to Section 81 (b) and (r) of Article IX of RA 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002 (RA 9165), the Board issued Board Regulation No. 3, Series of 2003 which provides for the "Comprehensive Guidelines on Importation, Distribution, Manufacture, Prescription, Dispensing and Sale of, and Other Lawful Acts in Connection with any Dangerous Drugs, Controlled Precursors and Essential Chemicals and other Similar or Analogous Substances";

WHEREAS, pursuant to Section 81 (b) and (r) of Article IX of RA 9165, the Board likewise issued Board Regulation No. 5, Series of 2006, which provides for the "Imposition of Fines and other Sanctions for Violations Committed on the Pertinent Provisions of Board Regulation No. 3, Series of 2003';

WHEREAS, **LIFELINE DIAGNOSTICS SUPPLIES, INC.,** with business address at Z Executive Suites, 1132 Quezon Avenue, Quezon City, is possessed of a P5-I license, with license number P5I-03413001-N002 (License to import specified controlled chemicals. May distribute that substance for which license was issued; may not distribute any substance for which not licensed) issued on February 2, 2012 and valid until February 2, 2013;

WHEREAS, on June 29, 2012, **LIFELINE DIAGNOSTICS SUPPLIES, INC.'s** shipment of 960 Test Kits Trep Sure (with 1.0N Sulfuric Acid, a controlled chemical), used to screen prospective blood donors for Syphilis, arrived from the United States at the Ninoy Aquino International Airport (NAIA) without the necessary importation permit / certificate of exemption, in violation of Section 6 (2) (b) of Board Regulation No. 3, Series of 2003 which states that no operator shall import any dangerous drug or controlled chemicals and their preparations in the absence of a separate import permit or Certificate of Exemption;

WHEREAS, Section 29 (d) of Board Regulation No. 3, Series of 2003 provides that a consignment of a dangerous drug or controlled chemical is liable to forfeiture if there is no import permit from the PDEA;

WHEREAS, PDEA directed **LIFELINE DIAGNOSTICS SUPPLIES, INC.** to pay Php 10,000.00 fine without prejudice for the conduct of forfeiture proceedings by the Bureau of Customs;

WHEREAS, **LIFELINE DIAGNOSTICS SUPPLIES, INC.** paid the Php 10,000.00 but requested both the PDEA and the DDB in writing that the subject shipment be not subjected to forfeiture proceedings;

WHEREAS, after investigation and due deliberation, it can be concluded that **LIFELINE DIAGNOSTICS SUPPLIES, INC.'s** failure to procure an import permit from the PDEA could not be considered willful considering that its previous records will show that it has been compliant with PDEA's requirements on handling controlled precursors and essential chemicals;

WHEREAS, records show that **LIFELINE DIAGNOSTICS SUPPLIES, INC.** is a holder of the required PDEA's license as well as of records of permits secured prior to their previous importation of controlled chemicals;

WHEREAS, the sulfuric acid concentration of the test kits in the subject shipment is less than 5% and 35 kits of the 960 test kits have 125 mL / kit of stop solution component containing sulfuric acid, thus the controlled chemical component is very minimal and neither does it present a risk of abuse nor the quantity of the same can be recovered to present such risk;

WHEREAS, sometime on June 4, 2004, **Board Resolution No. 18, Series of 2004** was issued exempting Membrane-Type Immunoassay Drug Test Kits from regulatory control requirements for the reason that these kits contain no or miniscule dangerous drugs and the same cannot be extracted or recovered from it and nor these drugs or chemicals could not be extracted or by itself will not present a risk of abuse. This exemption, by analogy, may also be made to apply to other testing kits where the controlled chemical content is very minimal;

WHEREAS, the public interest involved relative to the test kits, be it for determination of presence of drugs in the body or screening tests for blood donors, should override the regulatory measures involved considering the nature and the negligible amount of dangerous drugs or controlled chemicals contained in these kits. This is in line with the rationale for issuance of Board Regulation No. 5, S. 2008 (Creating the Committee on Appeals of the Board), which reads:

> *"WHEREAS, it has been noted that in a number of cases, violations committed were either due to unintentional lapses, simple negligence or the commission of acts amounting to violations of validly issued Board Regulations without any tint of malice, and as such, the Board feels that outright imposition of the sanction provided in such regulations so violated may be seen as an act to hamper the operations of legitimate industries or individuals,* and recognizing this, the Board deemed it proper to create a single Committee on Appeals to receive, pass-upon and make recommendation(s) to the Board, all cases of appeal and the adoption of guidelines or procedures on handling these cases.";

WHEREAS, considering the fact that **LIFELINE DIAGNOSTICS SUPPLIES, INC.** was in good faith relative to the importation of subject shipment since the same was merely done in the ordinary course of business; that the controlled chemical content in the shipment is very minimal (< 5% sulfuric acid); that in the interest of the public, the subject shipment may be released.

WHEREFORE, be it **RESOLVED,** as it is hereby **RESOLVED:** That-

a. The **JUNE 29, 2012 SHIPMENT** of **LIFELINE DIAGNOSTICS SUPPLIES, INC.** has satisfactorily **COMPLIED** with the DDB / PDEA administrative and regulatory requirements;

b. The forfeiture proceedings provided for in Section 29 (d) of DDB Board Regulation No. 3, Series of 2003 be **WAIVED**; and

c. LIFELINE DIAGNOSTICS SUPPLIES, INC. IS STERNLY WARNED THAT A REPETITION OF SAID ACT SHALL BE DEALT WITH MORE SEVERELY.

APPROVED and ADOPTED this 18th day of October, in the year of Our Lord, 2012 in Quezon City.

(Sgd.) **Secretary ANTONIO A. VILLAR, JR.**
Chairman, Dangerous Drugs Board

Attested:

(Sgd.) **Assistant Secretary BENJAMIN P. REYES**
OIC-Secretary of the Board