



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Food and Drug Administration

12/9/97
696

Dallas District
3310 Live Oak Street
Dallas, Texas 75204-6191

November 21, 1997

Ref: 98-DAL-WL-08

WARNING LETTER

Via Federal Express
and Facsimile

Ms. Nora B. Aghassi
Cell Marque Corporation
500 Capital of Texas Hwy., 1-110
Austin, Texas 78746

Dear Ms. Aghassi:

During an inspection of your Austin, Texas facilities on September 22, through October 8, 1997, our investigator determined that your firm manufactures in vitro diagnostic reagents and antibodies. These products are devices as defined by Section 201(h) of the Federal Food, Drug, and Cosmetic Act (the Act). Our inspection revealed that your devices are adulterated within the meaning of Section 501(h) of the Act, in that the methods used in, or the facilities or controls used for their manufacturing, packing, storage, or installation are not in conformance with the Quality Systems Regulations (QSR), as specified in Title 21, Code of Federal Regulations (21 CFR), Part 820, as follows:

1. Failure to control and monitor production processes to ensure that devices conform to approved specifications, as required by 21 CFR 820.70. For example, products were shipped without finished device testing, microbial contamination of in-process products and the water supply are not monitored and controlled, and test procedures do not ensure that finished devices have the necessary sensitivity, specificity, accuracy and precision to conform to approved specifications.
2. Failure to follow device master record (DMR) finished device acceptance procedures to ensure that finished devices meet acceptance criteria, are controlled until released, the DMR procedures are completed, the documentation

is reviewed and they are released only after authorization by a designated individual, as required by 21 CFR 820.80(d). For example, products were shipped without finished device testing.

3. Failure to validated processes that can not be fully verified by subsequent inspection and testing, as required by 820.75. For example, the deionized water system and equipment cleaning processes have not been validated or verified.
4. Failure to base sampling plans on a valid statistical rationale and to ensure that sampling methods are adequate for their intended use, as required by 21 CFR 820.250.
5. Failure to establish and maintain procedures for acceptance of incoming product and documentation of acceptance or rejection, as required by 21 CFR 820.80(b).
6. Failure to include component specifications in the device master record (DMR), as required by 21 CFR 820.181(a).
7. Failure to establish and maintain procedures to ensure that all purchased or otherwise received products and services conform to clearly described or referenced requirements from a list of acceptable suppliers, as required by 21 CFR 820.50.

In addition to the above stated QSR violations the products listed in your "1998 Products & Reference Guide," are adulterated within the meaning of Section 501(f)(1)(B) of the Act in that they are Class III devices under Section 513(f) and they do not have approved applications for premarket approval (PMA) pursuant to Section 515(a) or approved applications for investigational device exemptions (IDE) under Section 520(g). Your product guide gives the user guidance on the clinical significance of each product. By providing this guidance, your products do not qualify for the research exemption, under 21 CFR 801.125, or the exemptions from premarket notification, under 21 CFR 807.85. Therefore, you must submit premarket notifications or premarket approval applications for each of the products you distribute.

Your devices are also misbranded within the meaning of Section 502(o) of the Act in that a notice or other information respecting the devices was not provided to FDA as required by Section 510(k), they were not included on a list as required by Section

510(j), and they were not manufactured in a facility duly registered in accordance with Section 510. Resources for additional guidance and/or device registration and listing forms include:

Food and Drug Administration
Southwest Regional Office
Small Business Representative
7920 Elmbrook Road, Suite 102
Dallas, Texas 75247
(214) 655-8100 extension 133

or

Food and Drug Administration
Center for Devices and Radiological Health
Office of Health and Industry Programs
Division of Small Manufacturers Assistance
1350 Piccard Drive
Rockville, Maryland 20850
Phone (800) 638-2041 or (301) 443-7491
Fax (301) 443-8818

This letter is not intended to be an all-inclusive list of deficiencies at your facility. It is your responsibility to ensure adherence to each requirement of the Act and regulations. The specific violations noted in this letter and in the FDA-483 issued at the closeout of the inspection may be symptomatic of serious underlying problems in your firm's manufacturing and quality assurance systems. You are responsible for investigating and determining the causes of the violations identified by the FDA. If the causes are determined to be systems problems, you must promptly initiate permanent corrective actions.

Federal agencies are advised of the issuance of all Warning Letters about devices so that they may take this information into account when considering the award of contracts. Additionally, no premarket submissions for devices to which the QSR violations are reasonably related will be cleared until the violations have been corrected. Also, no requests for Certificates for Products for Export will be approved until the violations related to the subject devices have been corrected.

You should take prompt action to correct these deviations. Failure to promptly correct these deviations may result in regulatory action being initiated without further notice. These actions include, but are not limited to, seizure, injunction, and/or civil penalties.

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Cell Marque Corporation

We acknowledge receipt of your letter, dated October 15, 1997, in response to the FDA-483 issued at the conclusion of our inspection. The actions you propose appear sufficient to correct the observed violations, however, we do not agree with your proposed completion schedule. Specifically, six (6) to eight (8) months to complete corrections to FDA-483 item numbers two (2) through six (6) and eight (8) through ten (10) is excessive.

Please notify this office in writing within fifteen (15) working days of receipt of this letter, regarding the specific steps being taken to identify and make corrections to any underlying systems problems necessary to assure that similar violations will not recur. For those observation where corrective action cannot be completed within fifteen (15) working days, please state the reason for the delay and the proposed time frame within which the corrections will be completed.

Your response to this letter should be addressed to James Austin Templer, Compliance Officer, at the above letterhead address.

Sincerely yours,



for Joseph R. Baca
District Director