## UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

)
)
)
)
)
)
)
)
)

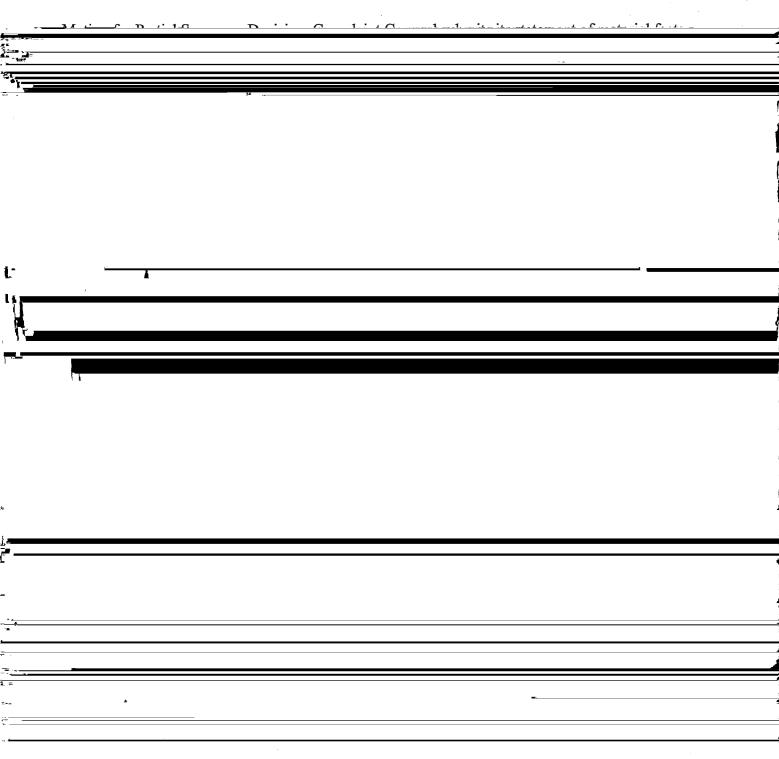
Docket No. 9315

PUBLIC VERSION

IN THE CONSIGNATION AND AND A CONTRACT OF

## MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE

Philip M. Eisenstat Thomas H. Brock



# Pursuant to Section 3.24 of the Commission's Rules of Practice, in connection with its

as to which there is no genuine issue.

# **Respondents**

1. Evanston Northwestern Healthcare ("ENH") is a non-profit corporation organized,

within the meaning of the Federal Trade Commission Act. Stipulation Regarding Interstate Commerce at ¶ 1 (Tab 2).

# **Health Care Industry**

7. Most people in the United States, not covered by government programs, partici-

<del></del>	ante in health in an an alone and an aller through their area large	Transmontor	Aarralan .	
			<u><u><u>k</u>-1</u></u>	
7				
1				
۰ <u>،</u>	]			
r, L				
•				
<u>ı.</u>				
*				
-				
<b>-</b> .				
		۶		
·	- ·		►	
•		4		
<b></b>				
· · ·				
, <u></u>				
	<u> </u>			

			· · · ·	
71)	Indi Lovino mas Vice Dusside	-+ ACTINTINALIAN Com		
ъ. <sup>77</sup> 93-				
1				
167				
7				
1				
1				i
1 7				
°1				
٠ <u>۴</u> ــــــــــــــــــــــــــــــــــــ				
-				ć
, <b></b>				
-				
<i>ی</i>		the Indexed and Deer	<u> </u>	 
4.				
, <u>i-3</u>				
1				
		71 71 🕿 4.>.		
		71 3 24).		
		77 7 24.).		

business with insurance companies.

	$\frac{1}{2} - \frac{1}{2} - \frac{1}$
<u>, (                                    </u>	
,	
<b>.</b>	
Ċ.	
1	
2	
•	
:	
· ·	"competition" observed that
	sites, the "consequences" of which was that the Highland Park IPA's
	CX 1347 at 7 ( <b>Tab 25</b> ).
113'	31 In June 1007 Itishland Dark Itishkasus's Deard noted that among the fastors
. 1	
	•
,	
<u> </u>	
-	

The Participating Agreements signed by the Independent Doctors are substantially similar to CX 1503 and CX 1504, including with regard to Sections 2.9, 3.3, 5.8, and Exhibit C. Spriggs-Hutchinson Decl. at ¶ 3 (Tab 52).

	35.	Pursuant to the Participating Agreement,		
		03 at 7 (Provision 2.9), 9 (Provision 3.3) and 22 (Exhibit C)( <b>Tab 33</b> ).		
	36.	The Participating Agreement	(T-L 22).	
` <b>/</b>				
1				
\$				
 }				
·		<u>. 1710/00 1.35 / 0.11 75 / 0.004/001/001/004/001/24/-0</u>		
Î				
		(		
,				
<del>ć</del>	-			
	0 <sup></sup>			
h				
		- -		
<u> </u>				

#### 39. ENH Medical Group also asked the Independent Doctors from Highland Park

÷

I	Hearital to sign a standardized lattor (addressed "To Where it Mar. Co	"") CV 1710 -+-1
1		
L		
	· •	
(	(Tab 37): CX 1714 (Tab 38): CX 1745 (Tab 40)	
~ · ·		
	40 In the standardized latter each destar who signed the la	ttor stated that he or she
	40In the stop derdized letter cash destar who signed the la	
	1	

from Terry Chan to ENH Medical Group management stated:

CX 450 at 1 (Tab 12).

. \_

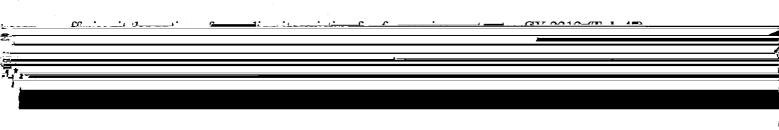
46. As Terry Chan noted in a memo to ENH Medical Group management, having

(/ <b>-</b>	destars norticinate in in	diversi diversi a constante de la constante de		1d	
Ľ				1	
• •					
1					
•					
<b>8</b>				. •	
J			AQ at 1 (Tab. 11)	· · ·	
			40 at 1 <b>(Tab 11)</b> .		
<u> </u>		nries Fining A -	an e <u>n en esta de</u>		

	doctor revenues by about per year. CX 27 at 6 (Tab 4); CX 28 (Tab 5); CX 416 (Tab	
	9).	
	51. At the conclusion of contract negotiations with <b>EXAMPLE 1</b> , ENH Medical	
	Group reported to its doctors on its success in obtaining	
	CX 1385 at 1 (Tab 27).	
	52. In addition to the <b>Example 2</b> contract, ENH Medical Group successfully	
	renegotiated more contracts throughout the year 2000. CX 27 at 6 (Tab 4); CX 28 (Tab 5); CX	
	2206 (Tab 44); CX 2211 (Tab 46).	
	57 In 1000 the for the remained come contracts and the TATT No diest	,
<u>.</u>		
, T		
)) <u></u>		
ii i		
1 1		
-	ـــــــــــــــــــــــــــــــــــــ	;
	<u>General contained anian incoments that anneal form</u> and the <b>second form</b> for a subsect to be a different second	
5		

from	of Medicare RBRVS to 135%. CX 28 (Tab 5); First Amended Answer at ¶43d (Tab
1).	
58.	ENH Medical Group negotiated price increases throughout the year 2000 that
amounted to	approximately <b>approximately</b> in increased annual revenues for the doctors. CX 17 at 1
(Tab 3).	

59. In late 2003, ENH Medical Group sent a letter to at least one insurance company



ĉ		
•		

)		
jan and a start st	L	
┩,		
1		
-		
د	z <u></u> , ⊱ z	
-		
	60.	

Katz Dep. Tr. at 59 (Tab 63): Hochberg Dep. Tr. at 78 (Tab 61).

. <u> </u>	<u>13 at 2.(Tab 18): Golbus Dep. Tr. at 114.(</u>	Julv 8. 2004)(Tab 53): Mittleman Dep. Tr. at	
-			
172-73	3 (Tab 57).		
		<u>1 4 Danske med 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 </u>	
-			
	_		
		(	
_	-		
· · · ·			
	A 10 - 2		

Galbur Dan Tr at 115 16 (July & 2004) (Tab 52)

1 -

ł

1.	
- 1 Mar -	
70.	It was not until November of 2002 that ENH Medical Group's management first
70.	it was not antil 100 onloor of 2002 that Divit Needoar Group 5 management mot
urged the de	velopment of an <b>example of the second s</b>
of affiliates v	villing to clinically integrate." CX 1500 at 2 (Tab 32).
71.	In December of 2002, an was intro-
/1.	in December of 2002, an was intro-
duced to mar	nagement, but the memo states that ENH Medical Group did
CX 1457 at 1	(Tab 30).
77	[1- 110 - and wet 1- March af 2002 that the Dartisinstine A mannant with the Inda

	(X + 42) (T + 20) (X + 45) (T + 20) (X + 45) (T + 20)
	CX 1433 (Tab 28); CX 1456 (Tab 29); CX 1457 (Tab 30).
	77.
	Golbus IH Tr. at 193-96 (Tab 70).
	Respondents' Knowledge of the Investigation
	78. On approximately the Federal Trade Commission sent a letter
	to Evanston Northwestern Healthcare informing the hospital that the Commission was conduct-
3	ана и социального социального в траницата и NT-141-2000 и социального в TT-141-2000 и социального в TT-141-2000 и социального в транических и транических
· · ·	
1	
•	
٩ <b>)</b>	
F	
	<u>n</u>
<u> </u>	

Hospital. CX 2213 (Tab 48).

70  $\sim$ 

### 80. ENH Medical Group management personnel also had notice of the FTC's

julipation into ENTLI at losst as carly as Contomber 26, 2002 through an article in the Wall

Street Journal. CX 139 (Tab 7).

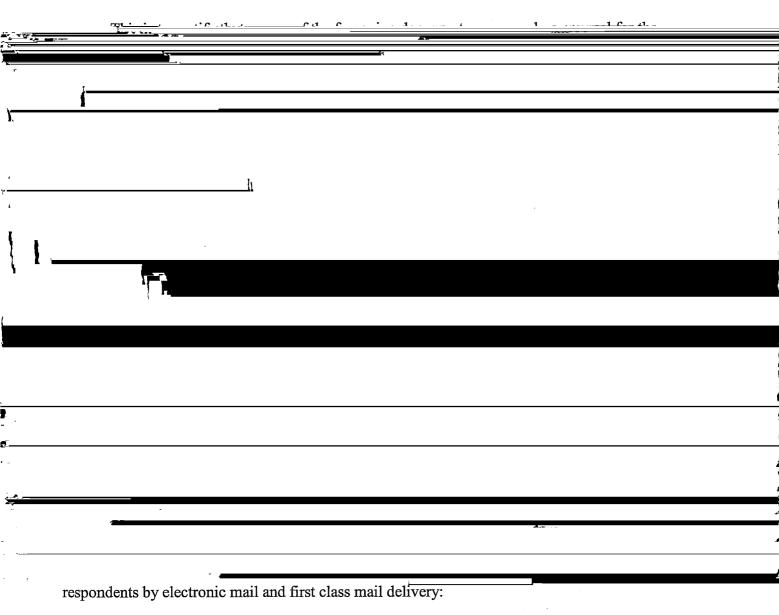
H;

Respectfully submitted,

Philip M. Eisenstat Complaint Counsel Federal Trade Commission 600 Pennsylvania Avenue, NW Washington, D.C. 20580

DATED: October 27, 2004.

# **CERTIFICATE OF SERVICE**



Michael L. Sibarium WINSTON & STRAWN, LLP 1400 L Street, NW Washington, DC 20005

Duane M. Kelley WINSTON & STRAWN, LLP 35 West Wacker Drive Chicago, IL 60601-9703

Charles B. Klein WINSTON & STRAWN, LLP 1400 L Street, NW Washington, DC 20005