

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of

**FRESENIUS MEDICAL CARE AG & CO.
KGaA,
a German partnership,**

and

**DAIICHI SANKYO COMPANY, LTD.,
a Japanese corporation.**

File No. 081-0146

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed exclusive sublicense and manufacturing and supply agreement for Venofer, an intravenous iron drug used for the treatment of anemia, to free-standing outpatient dialysis clinics, between Fresenius Medical Care AG & Co. KGaA, a German partnership limited by shares, and including entities and divisions controlled by Fresenius Medical Care AG & Co. KGaA, including (1) Fresenius Medical Care Holdings, Inc., a New York corporation wholly owned by Fresenius Medical Care AG & Co. KGaA, d/b/a Fresenius Medical Care North America, (2) Fresenius Medical Services, which operates dialysis clinics throughout North America, (3) Renal Therapies Group, which manufactures, sells and distributes equipment, supplies and pharmaceuticals to dialysis providers, and Tc-(sup)-15.3(pli)11(se5uli)11(se5o)0(d)-153(i(s and p) providing for other relief;

IT IS HEREBY AGREED by and between Proposed Respondents, by their duly

and shall set forth in detail the manner in which the Proposed Respondent has to date complied or has prepared to comply, is complying, and will comply with the Decision and Order. Such reports will not become part of the public record unless and until the Consent Agreement and Decision and Order are accepted by the Commission for public comment.

6. This Consent Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Consent Agreement is accepted by the Commission, it, together with the draft of Complaint contemplated thereby, will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Consent Agreement and so notify Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue or amend its Complaint (in such form as the circumstances may require) and issue its Decision and Order, in disposition of the proceeding.

7. This Consent Agreement is for settlement purposes only and does not constitute an

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11. By signing this Consent Agreement, each Proposed Respondent represents and warrants that it can accomplish the full relief contemplated by the attached Decision and Order related to each such Proposed Respondent and that all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement are parties to this Consent Agreement.

Signed this _____ day of _____, 2008.

**FRESENIUS MEDICAL CARE AG &
CO. KGaA**

By: _____
Dr. Ben Lipps
Chief Executive Officer and
Chairman of the Management Board

Dr. Rainer Runte
General Counsel and Chief
Compliance Officer
Member of Management Board

Katherine I. Funk
Sonnenschein Nath & Rosenthal LLP
Counsel for Fresenius Medical Care
Ag & Co. KGaA

DAIICHI SANKYO COMPANY, LTD.

By: _____
Takashi Shoda
President and Chief Executive Officer
and Representative Director

Wendy C. Goldstein
Patricia M. Wagner
Epstein Becker & Green, P.C.
Counsel for Daiichi Sankyo
Company, Ltd.

FEDERAL TRADE COMMISSION

By: _____
Elizabeth A. Jex
Attorney
Bureau of Competition

Approved:

Michael R. Moiseyev
Assistant Director
Bureau of Competition

David P. Wales, Jr.
Acting Director
Bureau of Competition