

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
William E. Kovacic
J. Thomas Rosb
Edith Ramirez
Julie Brill

In the Matter of

DAVITA INC. ,
a corporation.

File No. 111 0103

AGREEMENT CONTAINING CONSENT ORDERS

The Federal Trade Commission ("Commission"), having initiated an investigation of the proposed acquisition by DaVita Inc. (hereinafter "Proposed Respondent") of CDSII Holding Company, Inc. ("DSI"), and it now appearing that Proposed Respondent is willing to enter

- d. any claim under the Equal Access to Justice Act.
4. Because there may be interim competitive harm, the Commission may issue its Complaint and the Order to Hold Separate and Maintain Assets in this matter at any time after it accepts the Consent Agreement for public comment.
5. Not later than thirty (30) days after the date this Consent Agreement is signed by the Proposed Respondent, Proposed Respondent shall submit an initial report, pursuant to Section 2.33 of the Commission's Rules, 16 C.F.R. § 2.33. Proposed Respondent shall submit subsequent reports e

9. This Consent Agreement contemplates that, if it is accepted by the Commission, the Commission may (a) issue and serve its Complaint corresponding form and substance with the draft of Complaint here attached, (b) issue and serve its Order to Hold Separate and Maintain Assets, and (c) make information public with respect thereto. If such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission may without further notice to Proposed Respondent, issue the attached Decision and Order containing an order to divest and providing for other relief in disposition of the proceeding.
10. When final, the Decision and Order and the Order to Hold Separate and Maintain Assets shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Decision and Order and the Order to Hold Separate and Maintain Assets shall become final upon service. Delivery of the Complaint, the Decision and Order, and the Order to Hold Separate and Maintain Assets to Proposed Respondent by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a) – including, but not limited to, delivery to any office within the United States of Joe R. Grosberg, Esq., of McDermott, Will & Emery LLP; or of any other lawyer or law firm listed as Counsel for Proposed Respondent on this Consent Agreement – shall constitute service to Proposed Respondent. Proposed Respondent waives any right it may have to any other manner of service. Proposed Respondent also waives any right it may otherwise have to service of any Appendices incorporated by reference into the Decision and Order or the Order to Hold Separate and Maintain Assets, and agrees that it is bound to comply with and will comply with the Decision and Order and the Order to Hold Separate and Maintain Assets to the same extent as if it had been served with copies of the Appendices, where Proposed Respondent is already in possession of copies of such Appendices.
11. The Complaint may be used in construing the terms of the Decision and Order and the Order to Hold Separate and Maintain Assets, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order, the Order to Hold Separate and Maintain Assets, or the Consent Agreement may be used to limit or contradict the terms of the Decision and Order or the Order to Hold Separate and Maintain Assets.
12. By signing this Consent Agreement, Proposed Respondent represents and warrants that it will not be used to limit or

DAVITA INC.

FEDERAL TRADE COMMISSION

By: _____
Kent J. Thiry
Chairman and Chief Executive Officer
DaVita Inc.

Dated _____

Joel R. Grosberg, Esq.
Gregory E. Heltzer, Esq.
McDermott, Will & Emery LLP
Counsel for DaVita Inc.

Dated _____

By: _____
Lisa De Marchi Seigh
Amy Posner
Kari Wallace
Attorneys
Bureau of Competition

APPROVED:

By: _____
Michael R. Moiseyev
Assistant Director
Bureau of Competition

Peter J. Levitas
Deputy Director
Bureau of Competition

Richard A. Feinstein
Director
Bureau of Competition