

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman  
Julie Brill  
Maureen K. Ohlhausen  
Terrell McSweeney

|                              |               |   |
|------------------------------|---------------|---|
| <hr/>                        |               | ) |
| In the Matter of             |               | ) |
|                              |               | ) |
| RANGERS RENAL HOLDING, LP,   |               | ) |
| a partnership,               |               | ) |
|                              |               | ) |
| US RENAL CARE, Inc.          |               | ) |
| a corporation,               | Docket C-4570 | ) |
|                              |               | ) |
| DIALYSIS PARENT, LLC         |               | ) |
| a limited liability company, |               | ) |
|                              |               | ) |
| and                          |               | ) |
|                              |               | ) |
| DIALYSIS HOLDCO, LLC.        |               | ) |
| a limited liability company. |               | ) |
| <hr/>                        |               | ) |

**DECISION AND ORDER**  
**[Public Record Version]**

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by Rangers Renal Holdings, LP and US Renal Care, Inc. of Dialysis HoldCo LLC from Dialysis Parent LLC (collectively “Respondents”), and Respondents having been furnished thereafter with a copy of a draft Complaint that the Bureau of Competition

not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true,

- employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups, and affiliates controlled by US Renal Care, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each. After the Acquisition, US Renal Care includes DSI.
- B. “DSI” means (a) Dialysis Parent, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Dialysis Parent, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each, and (b) Dialysis HoldCo, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Dialysis HoldCo, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each .
  - C. “Respondents” means US Renal Care and DSI.
  - D. “Commission” means the Federal Trade Commission.

- J. “Confidential Business Information” means competitively sensitive, proprietary, and all other information that is not in the public domain, owned by or pertaining to, a Person or a Person’s business, and includes, but is not limited to, all customer lists, price lists, contracts, cost information, marketing methods, patents, technologies, policies and procedures, processes, or other trade secrets.
- K. “Contract Services” means services performed pursuant to any Clinic’s Physician Contract.
- L. “Designated DSI Employee” means each employee of a DSI Laredo Clinic.
- M. “Divestiture Trustee” means the person appointed to act as Trustee by the Commission pursuant to Paragraph II.A or Paragraph V of this Order.
- N. “DSI Laredo Clinic” or “DSI Laredo Clinics” means any one, or all of following:
1. DSI Laredo Dialysis, located at 5501 Springfield Avenue, Laredo, TX 78041.
  2. DSI South Laredo Dialysis and South Laredo Home, located at 802 Guadalupe Street, Laredo, TX 78040; and
  3. DSI West Laredo Dialysis, located at 4151 Jaime Zapata Memorial Hwy, Ste. 105, Laredo, TX 78046.
- O. “DSI Laredo Clinic Assets” means the following assets relating to the Operation Of A Clinic:
1. all rights under the Clinic’s Physician Contracts;

- a. documents containing information relating to patients (to the extent transferable under applicable law), including, but not limited to, medical records,
- b. financial records,
- c. personnel files,
- d. physician lists and other records of the clinic's dealings with physicians,
- e. maintenance records,
- f. documents relating to policies and procedures,
- g. documents relating to quality control,
- h. documents relating to payors,
- i. documents relating to suppliers,
- j. documents relating to the DSI Laredo Clinics that are also related to the Operation Of Clinics other than the DSI Laredo Clinics, **PROVIDED, HOWEVER** if such documents are located other than on the premises of the DSI Laredo Clinics, Respondents may divest a copy of the document with the portions not relating to the DSI Laredo Clinics redacted, and
- k. copies of contracts with Payors and Suppliers, unless such contracts cannot, accord

- P. “Employee Of A DSI Laredo Clinic” and “Employee Of The DSI Laredo Clinic” mean any individual (including, but not limited to, a clinic director, manager, nurse, technician, clerk, dietician, or social worker) who is employed by Respondents, by an Acquirer, or by another manager or owner of such DSI Laredo Clinic, and who has worked part-time or full-time on the premises of such DSI Laredo Clinic at any time since January 1, 2015, regardless of whether the individual has also worked on the premises of any other Clinic.
- Q. “Excluded Assets” means:
1. all cash, cash equivalents, and short term investments of cash;
  2. accounts receivable;
  3. income tax refunds and tax deposits due to Respondents;
  4. unbilled costs and fees, and Medicare bad debt recovery claims, arising before a Clinic is divested to an Acquirer;
  5. rights to the names “US Renal Care,” and “DSI,” and any variation of those names (unless otherwise licensed to an Acquirer pursuant to the Order);
  6. insurance policies and all claims thereunder;
  7. prepaid expenses;
  8. minute books (other than governing body minute books of the DSI Laredo Clinic), tax returns, and other corporate books and records;
  9. any inter-company balances due to or from Respondents or their affiliates;
  10. all benefits plans;
  11. all writings and other items that are protected by the attorney-client privilege, the attorney work product doctrine or any other cognizable privilege or protection, except to the extent such information is necessary to the Operation Of A DSI Laredo Clinic;
  12. telecommunication systems equipment and applications, and information systems equipment including, but not limited to, computer hardware not physically located at a DSI Laredo Clinic but shared with the DSI Laredo Clinic through local and/or wide area networking systems;

13. computer hardware used in the Operation Of A DSI Laredo Clinic that is (a) not located at the Clinic, and (b) not otherwise to be divested pursuant to a Remedial Agrdi(J [(A)-22)(J [(A)-2ur)3(s)-uant t13wpe f0.PID 3 >>BD7 4.5 55-16.3 Td

- U. “Intangible Property” means intangible property relating to the Operation Of A DSI Laredo Clinic including, but not limited to, intellectual property, software, computer programs, patents, know-how, goodwill, technology, trade secrets, technical information, marketing information, protocols, quality control information, trademarks, trade names, service marks, logos, and the modifications or improvements to such intangible property.
- V. “Laredo, TX Area” means the area in and around Laredo, TX, consisting of the following zip codes: 78040, 78041, 78043, 78044, 78045, 78046, 78067, 78076, 78344, 78360, 78361, and 78369.
- W. “Licensed Intangible Property” means intangible property licensed to Respondents from a third party relating to the Operation Of A DSI Laredo Clinic including, but not limited to, intellectual property, software, computer programs (including, but not limited to, electronic medical record systems), patents, know-how, goodwill, technology, trade secrets, technical information, marketing information, protocols, quality control information, trademarks, trade names, service marks, logos, and the modifications or improvements to such intangible property that are licensed to Respondents. (“Licensed Intangible Property” does not mean modifications and improvements to intangible property that are not licensed to Respondents.)
- X. “Medical Protocols” means medical protocols promulgated by Respondents, whether in hard copy or embedded in software, that have been in effect at any time since January 1, 2015, PROVIDED HOWEVER, “Medical Protocols” does not mean medical protocols adopted or promulgated, at any time, by any Physician or by any Acquirer, even if such medical protocols are identical, in whole or in part, to medical protocols promulgated by Respondents.
- Y. “Operation Of A Clinic,” and “Operation Of A DSI Laredo Clinic” mean all activities relating to the business of a Clinic, or a DSI Laredo Clinic, respectively, including, but not limited to:
1. attracting patients to such Clinic for dialysis services, providing dialysis services to patients of such Clinic, and dealing with their Physicians, including, but not limited to, services relating to hemodialysis and peritoneal dialysis;
  2. providing medical products to patients of such Clinic;
  3. maintaining the equipment on the premises of such Clinic, including, but not limited to, the equipment used in providing dialysis services to patients;
  4. purchasing supplies and equipment for such Clinic;
  5. negotiating leases for the premises of such Clinic;



6.

GG.

to comply with this Order. The Remedial Agreements shall not vary or contradict, or be construed to vary or contradict, the terms of this Order. Nothing in this Order shall reduce, or be construed to reduce, any rights or benefits of an Acquirer, or any obligations of Respondents, under the Remedial Agreements.

**PROVIDED, HOWEVER,** if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that Satellite Healthcare, Inc. is not an acceptable Acquirer then, after receipt of such written notification: (1) Respondents shall immediately notify Satellite Healthcare, Inc. of the notice received from the Commission and shall as soon as practicable, but no later than within five (5) business days, effect the rescission of the Respondent's purchase of the Respondent's shares of common stock.

governmental restrictions on the Acquirer's business operations relating to the DSI Laredo Clinics.

2. cooperate with the Acquirer and assist the Acquirer, at no cost to the Acquirer.
3. assign to the Acquirer all of the Clinic's Physician Contracts for the DSI Laredo Clinics . PROVIDED HOWEVER,

2. not interfere in employment negotiations between each Designated DSI Employee and an Acquirer;
3. not prevent, prohibit or restrict or threaten to prevent, prohibit or restrict the Designated DSI Employee from being employed by an Acquirer, and shall not offer any incentive to the Designated DSI Employee to decline employment with an Acquirer;
4. cooperate with an Acquirer of a DSI Laredo Clinic in effecting transfer of the Designated DSI Employee

- F. For a period of two (2) years following the Time Of Divestiture of each DSI Laredo Clinic, Respondent US Renal Care shall not, directly or indirectly, solicit, induce, or attempt to solicit or induce any employee who is employed by any Acquirer to terminate his or her employment relationship with such Acquirer, unless that employment relationship has already been terminated by the Acquirer; **PROVIDED, HOWEVER,** Respondent US Renal Care may make general advertisements for employees including, but not limited to, in newspapers, trade publications, websites, or other media not targeted specifically at any of an Acquirer's employees;

2. after the Time Of Divestiture of such Clinic:
  - a. shall not use Confidential Business Information relating exclusively to any of the DSI Laredo Clinics for any purpose other than complying with the terms of this Order or with any law; and
  - b. shall destroy all records of Confidential Business Information relating exclusively to any of the DSI Laredo Clinics, except to the extent that: (1) Respondents are required by law to retain such information, and (2) Respondents' inside or outside attorneys may keep one copy solely for archival purposes, but may not disclose such copy to the rest of Respondents.
  
- I. At the Time Of Divestiture of each DSI Laredo Clinic, Respondents shall provide the Acquirer of the Clinic with manuals, instructions, and specifications sufficient for the Acquirer to access and use any information:
  1. divested to the Acquirer pursuant to this Order, or
  2. in the possession of the Acquirer, and previously used by Respondents in the Operation Of A DSI Laredo Clinic.
  
- J. For two (2) years following the Time Of Divestiture of each DSI Laredo Clinic, Respondent US Renal Care shall not solicit







1. The Monitor shall have the power and authority to monitor Respondents' compliance with the terms of this Order, and the Remedial Agreements, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of this Order and in consultation with the Commission, including, but not limited to:
  - a. Assuring that Respondents expeditiously comply with all obligations and perform all responsibilities as required by the this Order, and the Remedial Agreements;
  - b. Monitoring any transition services agreements;
  - c. Assuring that Confidential Business Information is not received or used by Respondents or the Acquirers, except as allowed in this Order.
2. The Monitor shall act in a fiduciary capacity for the benefit of the Commission.
3. The Monitor shall serve for such time as is necessary to monitor Respondents' compliance with the provisions of this Order, and the Remedial Agreements.
4. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to Respondents' personnel, books, documents, records kept in the Ordinary Course Of Business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Respondents'

claims, damages, liabilities, or expenses result from malfeasance, gross negligence, willful or wanton acts, or bad faith by the Monitor.

7. Respondent US Renal Care shall report to the Monitor in accordance with the requirements of this Order and/or as otherwise provided in any agreement approved by the Commission. The Monitor shall evaluate the reports submitted to the Monitor by Respondent US Renal Care, and any reports submitted by the Acquirer with respect to the performance of Respondents' obligations under this Order, and the Remedial Agreements.
- 8.

(“Trustee”) to divest any of the DSI Laredo Clinic Assets that have not been divested pursuant to Paragraph II of this Order in a manner that satisfies the requirements of Paragraph II of this Order. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondent US Renal Care shall consent to the appointment of a Trustee in such action to divest the relevant assets in accordance with the terms of this Order. Neither the appointment of a Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondent US Renal Care to comply with this Order.

B.

~~The Commission shall determine whether the Respondent has violated the Commission's orders and whether the Respondent has failed to comply with the Commission's orders.~~

3. Subject to any demonstrated legally recognized privilege, the Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be divested by this Order and to any other relevant information, as the Trustee may request. Respondent US Renal Care shall develop such financial or other information as the Trustee may request and shall cooperate with the Trustee. Respondent US Renal Care shall take no action to interfere with or impede the Trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondent US Renal Care shall extend the time for divestiture under this Paragraph V in an amount equal to the delay, as determined by the Commission or, for a court-appointed Trustee, by the court.
4. The Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondent US Renal Care's absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture shall be made in the manner that receives the prior approval of the Commission and to an Acquirer or Acquirers that receive the prior approval of the Commission, as required by this Order; **PROVIDED, HOWEVER,** if the Trustee receives bona fide offers for particular assets from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity for such assets, the Trustee shall divest the assets to the acquiring entity selected by Respondent US Renal Care from among those approved by the Commission; **PROVIDED, FURTHER, HOWEVER,** that Respondent US Renal Care shall select such entity within five (5) days of receiving notification of the Commission's approval.
5. The Trustee shall serve, without bond or other security, at the cost and expense of Respondent US Renal Care, on such reasonable and customary terms and conditions as the Commission or a court may set. The Trustee shall have the authority to employ, at the cost and expense of Respondent US Renal Care, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Trustee's duties and responsibilities. The Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed Trustee, by the court, of the account of the Trustee, including fees for the Trustee's services, all remaining monies shall be paid at the direction of Respondent US Renal Care, and the Trustee's power shall be terminated. The compensation of the Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.

6. Respondent US Renal Care shall indemnify the Trustee and hold the Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence, willful or wanton acts, or bad faith by the Trustee.
  7. The Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
  8. The Trustee shall report in writing to Respondent US Renal Care and to the Commission every sixty (60) days concerning the Trustee's efforts to accomplish the divestiture.
  9. Respondent US Renal Care may require the Trustee and each of the Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; PROVIDED, HOWEVER, such agreement shall not restrict the Trustee from providing any information to the Commission.
- E. If the Commission determines that a Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Trustee in the same manner as provided in this Paragraph V.
- F. The Commission or, in the case of a court-appointed Trustee, the court, may on its own initiative or at the request of the Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.
- G. The Trustee appointed pursuant to this Paragraph may be the same Person appointed as the Monitor pursuant to the relevant provisions of this Order.

## VI.

### **IT IS FURTHER ORDERED** that:

- A. From the date Respondents sign the Consent Agreement until the Time of Divestiture, Respondents shall:
  1. Maintain each of the DSI Laredo Clinics and all DSI Laredo Clinic Assets in substantially the same condition (except for normal wear and tear) as they existed at the time Respondents sign the Consent Agreement;

2. Take such actions that are consistent with the past practices of Respondent DSI in connection with each DSI Laredo Clinic and all the DSI Laredo Clinic Assets, and that are taken in the ordinary course of business and in the normal day-to-day operations of the DSI Laredo Clinics;
  3. Keep available the services of the current officers, employees, and agents of Respondent DSI; and maintain the relations and goodwill with suppliers, Payors, physicians, landlords, patients, employees, agents, and others having business relations with the DSI Laredo Clinics and the DSI Laredo Clinic Assets;
  4. Preserve the DSI Laredo Clinics and DSI Laredo Clinic Assets as ongoing businesses and not take any affirmative action, or fail to take any action within Respondents' control, as a result of which the viability, competitiveness, and marketability of the DSI Laredo Clinics and DSI Laredo Clinic Assets would be diminished; and
  5. Not object to sharing with the Acquirer the payor and supplier contract terms relating to the DSI Laredo Clinic Assets: (i) if the payor or supplier consents in writing to such disclosure upon a request by the Acquirer, and (ii) if the Acquirer enters into a confidentiality agreement with Respondents not to disclose the information to any third party.
- B. The purposes of this Paragraph VI are to: (1) preserve the DSI Laredo Clinics as viable, competitive, and ongoing businesses until the Time of Divestiture, (2) prevent interim harm to competition pending the relevant divestitures and other relief, and (3)

complied with this Order, and the Remedial Agreements. Respondent US Renal Care shall submit at the same time a copy of these reports to the Monitor if a monitor is appointed pursuant to Paragraph IV.

**VIII.**

**IT IS FURTHER ORDERED** that Respondent US Renal Care shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of Respondent US Renal Care,
- B. Any proposed acquisition, merger or consolidation of Respondent US Renal Care, or  
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- C. Any other change in Respondent US Renal Care that may affect compliance obligations arising out of this Order, including but not limited to assignment, the creation or dissolution of subsidiary  
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# **Non-Public Appendix A**

## **Satellite Divestiture Agreement**

**[Redacted From the Public Record Version, But Incorporated By Reference]**