

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
Davita Inc.,)	
a corporation, and)	File No. 211-0013
)	
Total Renal Care, Inc.,)	
a corporation.)	
)	

AGREEMENT CONTAINING CONSENT ORDERS

The Federal Trade Commission (“Commission”) initiated an investigation of the proposed acquisition by Proposed Respondent Total Renal Care, Inc., a wholly owned subsidiary of Proposed Respondent DaVita Inc. (“Proposed Respondents”), of certain assets comprising dialysis clinics owned and operated by the University of Utah. The

through a propos 1. Proposed Respondent DaVita is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its executive offices and principal place of business located at 2000 16

th Street,

Denver, Colorado 80202.

2. Proposed Respondent Total Renal Care, Inc. is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of California, with its executive offices and principal place of business located at 601 Hawaii Street, Segundo, California 90245.
3. Proposed Respondents admit all the jurisdictional facts set forth in the Draft Complaint.

4. Proposed Respondents waive:
 - a. any further procedural steps;
 - b. the requirement that the Decision and Order and the Order to Maintain Assets contain a statement of findings of fact and conclusions of law;
 - c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order or the Order to Maintain Assets entered pursuant to this Consent Agreement; and
 - d. any claim under the Equal Access to Justice Act.
5. This Consent Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true.
6. Proposed Respondents shall submit an initial compliance report pursuant to Commission Rule 2.33, 16 C.F.R. § 2.33, no later than 30 days after the date on which Proposed Respondents execute this Consent Agreement and subsequent compliance reports every 30 days thereafter until the Order to Maintain Assets becomes final. After the Order to Maintain Assets becomes final, the reporting obligations contained in the Order to Maintain Assets shall cease and the reporting obligations under this Consent Agreement shall cease. Each compliance report shall set forth in detail the manner in which Proposed Respondents have complied, have prepared to comply, are complying, and will comply with the Consent Agreement, Decision and Order, and the Order to Maintain Assets.

Commission accepts this Consent Agreement, the Commission will place it, together with the Complaint, the proposed Decision and Order, the Order to Maintain Assets, an explanation of the provisions of the proposed Decision and Order and the Order to Maintain Assets and any other information that may help interested persons understand the orders on the public record for the receipt of comments for 30 days

9. Because there may be interim competitive harm, the Commission may issue serve its Complaint (in such form as circumstances may require) a Order to Maintain Assets in this matter at any time after it accepts the Consent Agreement for public comment.
10. This Consent Agreement contemplates, that the Commission accepts the Consent Agreement, the Commission thereafter may withdraw its acceptance of this Consent Agreement and notify Proposed Respondents, in which event the Commission will take such action as it may consider appropriate. If the Commission does not subsequently withdraw such acceptance pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34, and it has already issued the Complaint and the Order to Maintain Assets, the Commission may, without further notice to Proposed Respondents, issue the attached Decision and Order containing an order to divest and to provide for other relief in disposition of the proceeding
11. The Decision and Order and the Order to Maintain Assets shall become final upon service. Delivery of the Complaint, the Decision and Order, and the Order to Maintain Assets to Proposed Respondents by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), or by delivery to United States counsel for Proposed Respondents identified in this Consent Agreement, shall constitute service to Proposed Respondents. Proposed Respondents waive any rights they may have to any other manner of service. Proposed Respondents also waive any rights they may otherwise have to service of any appendices attached to or incorporated by reference into the Decision and Order Order to Maintain Assets, if Proposed Respondents are already in possession of such Appendices, and agree that they are bound to comply with 2 (i)-2 (t)-2 (2 (i)-2)-2 (he)-16 (y)20.yAssets

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other things,

PROPOSED RESPONDENTS

By: Javier J. Rodriguez
Chief Executive Officer
DaVita Inc.

Dated: _____

Stephen Weissman
Gibson, Dunn & Crutcher LLP
Counsel for Proposed Respondents