

FEDERAL RESERVE SYSTEM**Edward N. Barol, Trustee for the Irrevocable Trust and Travel One, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 6, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Edward N. Barol, Trustee for the Irrevocable Trust and Travel One*, Narberth, Pennsylvania; to acquire an additional 18.43 percent, for a total of 21.44 percent, of the voting shares of First Bank of Philadelphia, Philadelphia, Pennsylvania

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mr. Bernard D. Cooper*, Marion, Iowa; to acquire 100 percent of the voting shares of Delhi Bancshares, Inc., Delhi, Iowa, and thereby indirectly acquire Delhi Savings Bank, Delhi, Iowa.

Board of Governors of the Federal Reserve System, May 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-12540 Filed 5-22-95; 8:45 am]

BILLING CODE 6210-01-F

Towne Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank

holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 16, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Towne Bancorp, Inc.*, Perrysburg, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Towne Bank, Perrysburg, Ohio.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Foursquare Cornerstone, Inc.*, Brookfield, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Cornerstone Bank, Brookfield, Wisconsin, a *de novo* bank.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security Northwest Bancorporation, Inc.*, Bloomington, Minnesota; to merge with The Highland Bancorporation, Inc., Bloomington, Minnesota, and thereby indirectly acquire The Highland Bank, St. Paul, Minnesota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Whitcorp Financial Company*, Leoti, Kansas; to merge with Western Bancorp, Inc., Garden City, Kansas, and thereby indirectly acquire Western State Bank, Garden City, Kansas.

Board of Governors of the Federal Reserve System, May 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-12541 Filed 5-22-95; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 951 0022]

Columbia/HCA Healthcare Corporation; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit, among other things, Columbia/HCA and Healthtrust, Inc. to merge, provided that Columbia/HCA divests seven hospitals within twelve months (nine months for the divestiture of three hospitals in the Salt Lake City area). The proposed consent agreement would require the respondent, for ten years, to obtain Commission approval before acquiring another acute care hospital in any of the six market areas at issue, and before transferring an acute care hospital in any of the areas to another entity that already operates one in that area.

DATES: Comments must be received on or before July 24, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580

FOR FURTHER INFORMATION CONTACT: Mark Horoschak, FTC/S-3115, Washington, DC 20580, (202) 326-2756.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

In the matter of Columbia/HCA Healthcare Corporation, a corporation File No. 951-0022.

The Federal Trade Commission ("Commission"), having initiated an investigation into the proposed acquisition of Healthtrust, Inc.—The Hospital Company ("Healthtrust") by Columbia/HCA Healthcare Corporation ("Columbia/HCA"), and of certain acts and practices of Columbia/HCA, and it now appearing that Columbia/HCA ("proposed respondent") is willing to enter into an agreement containing an order to divest certain assets, to cease and desist from making certain acquisitions, and providing for other relief:

It is hereby agreed by and between the proposed respondent by its duly authorized officers and attorneys, and counsel for the Commission that:

1. The proposed respondent Columbia/HCA is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203.

2. The proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. The proposed respondent waives:

- a. any further procedural steps;
- b. the requirement that the Commission's decision 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 order entered pursuant to this agreement; and
- d. any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this 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 sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the proposed

respondent that the law has been violated as alleged in the draft of complaint or that the facts as alleged in the draft of complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest and to cease and desist, and other relief in disposition of the proceedings, and (2) make information public with respect thereto. When so entered, the order 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 order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. The proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or contradict the terms of the order.

7. The proposed respondent has read the proposed complaint and order contemplated hereby. The proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that the Commission's approval, pursuant to the Commission's order in Docket No. C-3538, of the Acquisition, as defined in the following order, is conditioned upon the proposed respondent's compliance with the terms of the following order. The proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the following order after it becomes final, or as the successor to Healthtrust, Inc.—The Hospital Company, of the Commission's order in Docket No. C-3538.

Order

I

It is ordered That, as used in this order, the following definitions shall apply:

A. "Columbia/HCA" or "respondent" means Columbia/HCA Healthcare Corporation, its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by Columbia/HCA; their directors, officers, employees, agents, and representatives; and their successors and assigns.

B. "Healthtrust" means Healthtrust, Inc.—The Hospital Company, its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by Healthtrust; their directors, officers, employees, agents, and representatives; and their successors and assigns.

C. "Commission" means the Federal Trade Commission.

D. The "Acquisition" means the transaction contemplated by the October 4, 1994, agreement between Columbia/HCA and Healthtrust, whereby Columbia/HCA will acquire all the stock of Healthtrust, a wholly-owned subsidiary of Columbia/HCA will be merged with and into Healthtrust, and Healthtrust will operate as a wholly-owned subsidiary of Columbia/HCA.

E. "Acute care hospital" means a health care facility, licensed as a hospital, other than a federally-owned facility, having a duly organized governing body with overall administrative and professional responsibility, and an organized professional staff, that provides 24-hour inpatient care, that may also provide outpatient services, and having as a primary function the provision of inpatient services for medical diagnosis, treatment, and care of physically injured or sick persons with short term or episodic health problems or infirmities.

F. To "operate" an acute care hospital means to own, lease, manage, or otherwise control or direct the operations of an acute care hospital, directly or indirectly.

G. To "acquire" an acute care hospital means, directly or indirectly, through subsidiaries, partnerships, or otherwise:

1. To acquire the whole or any part of the assets used or previously used within the last two years (and still suitable for use) for operating an acute care hospital from any person presently engaged in, or within the two years preceding such acquisition engaged in, operating an acute care hospital;

2. To acquire the whole or any part of the stock, share capital, equity, or other interest in any person engaged in, or

within the two years preceding such acquisition engaged in, operating an acute care hospital;

3. To acquire or otherwise obtain the right to designate, directly or indirectly, directors or trustees of an acute care hospital; or

4. To enter into any other arrangement to obtain direct or indirect ownership, management, or control of an acute care hospital or any part thereof, including, but not limited to, a lease of or management contract for an acute care hospital.

H. "Affiliate" means any entity whose management and policies are controlled in any way, directly or indirectly, by the person with which it is affiliated.

I. "Person" means any natural person, partnership, corporation, company, association, trust, joint venture, or other business or legal entity, including any governmental agency.

J. "Relevant area(s)" means:

1. the Salt Lake City-Ogden Metropolitan Statistical Area, encompassing three contiguous counties in northern Utah: Weber County, Davis County, and Salt Lake County;

2. the Pensacola area, encompassing the Florida counties of Escambia and Santa Rosa;

3. the Okaloosa area, encompassing the Florida county of Okaloosa;

4. the Denton area, encompassing the Texas counties of Cooke and Denton (excluding the incorporated city of Lewisville and that portion of Denton County south of Texas highway number 121);

5. the Ville Platte-Mamou-Opelousas area, encompassing the Louisiana parishes of Evangeline and St. Landry; and

6. the Orlando area, encompassing the Florida counties of Seminole, Orange, and Osceola.

K. "CLHS" means Central Louisiana Healthcare System Limited Partnership, a Louisiana partnership in commendam in which Columbia/HCA currently holds a partnership interest, its partnerships, joint ventures, companies including the Ville Platte Medical Center, subsidiaries, divisions, and groups and affiliates controlled by CLHS; their directors, officers, employees, agents, and representatives; and their successors and assigns.

L. "ORHS" means Orlando Regional Healthcare System, Inc., a Florida corporation, its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by ORHS; their directors, officers, employees, agents, and representatives; and their successors and assigns.

M. The "SSH Joint Venture" means the Florida partnership in which Healthtrust (through a wholly-owned subsidiary) and ORHS (through a wholly-owned subsidiary) hold partnership interests, which owns and operates the South Seminole Hospital in Longwood, Florida.

N. The "SSH Joint Venture Interest" means Healthtrust's interest in the SSH Joint Venture.

O. The "Schedule A Assets" means the assets listed on the attached Schedule A.

P. The "Schedule B Assets" means the assets listed on the attached Schedule B.

Q. The "Utah Healthtrust Assets" means the assets listed on the attached Schedule C.

R. "Assets and Businesses" include, but are not limited to, all assets, properties, businesses, rights, privileges, contractual interests, licenses, and goodwill of whatever nature, tangible and intangible, including, without limitation, the following:

1. all real property interests (including fee simple interests and real property leasehold interests, whether as lessor or lessee), together with all buildings, improvements, and fixtures located thereon, all construction in progress thereat, all appurtenances thereto, and all licenses and permits related thereto (collectively, the "Real Property");

2. all contracts and agreements with physicians, other health care providers, unions, third party payors, HMOs, customers, suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consigners, and consignees (collectively, the "Contracts");

3. all machinery, equipment, fixtures, vehicles, furniture, inventories, and supplies (other than such inventories and supplies as are used in the ordinary course of business during the time that Columbia/HCA owns the assets) (collectively, the "Personal Property");

4. all research materials, technical information, management information systems, software, software licenses, inventions, trade secrets, technology, know how, specifications, designs, drawings, processes, and quality control data (collectively, the "Intangible Personal Property");

5. all books, records, and files, excluding, however, the corporate minute books and tax records of Columbia/HCA and its affiliates; and

6. all prepaid expenses.

II

It is further ordered That:

A. Respondent shall divest (or in the case of the Ville Platte Medical Center shall cause CLHS to divest), absolutely and in good faith, within twelve (12) months of the date this order becomes final, the Schedule A Assets.

B. Respondent shall also divest absolutely and in good faith, within twelve (12) months of the date this order becomes final, the Assets and Business of, including all improvements, additions, and enhancements made to such facilities prior to divestiture, either of the following:

1. Denton Regional Medical Center, 4405 North Interstate 35, Denton, Texas 76207, including the following (collectively "DRMC"):

a. DRMC Office Building, 4401 North I-35, Denton, Texas 76207;

b. the medical office building and vacant land at 3353 I-35E South, Denton, Texas 76107;

c. the satellite offices operated at Denton Regional Medical Center, 1207A North Grand Avenue, Gainesville, Texas 76240;

d. Flow Rehabilitation Hospital, 1310 Scripture, Denton, Texas 76201;

e. Denton Regional Medical Center—Little Elm, 420 FM720 West, Suite 9, Little Elm, Texas 75068;

f. Professional Health Care Services, 621 Londonderry Lane, Denton, Texas 76205; or

2. Denton Community Hospital, 107 N. Bonnie Brae, Denton, Texas 76201, and the Medical Office Building at Scripture/Bonnie Brae (collectively "Denton Community Hospital").

C. Respondent shall also divest such additional Assets and Businesses ancillary to the Schedule A Assets and to either DRMC or Denton Community Hospital, and effect such arrangements as are necessary to assure the marketability, viability, and competitiveness of the Schedule A Assets, DRMC and Denton Community Hospital.

D. Respondent shall divest the Schedule A Assets, and either DRMC or Denton Community Hospital, only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. If respondent proposes to divest Denton Community Hospital, it must provide the Commission with the written consent of the landlord of such facilities to the proposed assignment and divestiture at the time that Commission approval of the divestiture is sought. The purpose of the divestitures of the Schedule A Assets and of either DRMC or Denton Community Hospital, is to ensure the continuation of the Schedule A Assets and of either DRMC or Denton

Community Hospital, as ongoing, viable acute care hospitals and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

E. With respect to the Schedule A Assets and DRMC, respondent shall comply with all terms of the Agreement to Hold Separate Regarding the Florida, Texas, and Louisiana Assets, attached hereto and made a part hereof as Appendix I. Said Hold Separate shall continue in effect until such time as respondent had fulfilled the divestiture requirements of this order or until such other time as said Hold Separate provides.

F. Pending divestiture of the Schedule A Assets and DRMC or Denton Community Hospital, respondent shall take such actions as are necessary to maintain the present marketability, viability, and competitiveness of the Schedule A Assets, DRMC, and Denton Community Hospital, and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Schedule A Assets, DRMC, and Denton Community Hospital, except for ordinary wear and tear.

G. A condition of approval by the Commission of each divestiture shall be a written agreement by the acquirer(s) of the Schedule A Assets and of either DRMC or Denton Community Hospital, that it will not sell for a period of ten (10) years from the date of divestiture, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission, any Schedule A Asset, DRMC, or Denton Community Hospital to any person who operates, or will operate immediately following the sale, any other acute care hospital in the same relevant area where the divested acute care hospital is located. Provided, however, that the acquirer is not required to seek prior approval of the Commission for the sale of any of the assets identified in any Part II of Schedule A.

III

It is further ordered That:

A. Within six (6) months of the date this order becomes final, respondent shall terminate, absolutely and in good faith, the SSH Joint Venture, by either acquiring ORSH's interest in the SSH Joint Venture or by divesting the SSH Joint Venture Interest. The purpose of the termination of the SSH Joint Venture is to ensure the continuation of the South Seminole Hospital as an ongoing, viable acute care hospital and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

B. If respondent terminates the SSH Joint Venture by acquiring ORHS's interest in the SSH Joint Venture, such acquisition shall occur only in such a manner that receives the prior approval of the Commission. If respondent terminates the Joint Venture by divesting the SSH Joint Venture Interest, such divestiture shall be made only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

C. With respect to the SSH Joint Venture Interest, respondent shall comply with all terms of the Agreement to Hold Separate Regarding the Florida, Texas, and Louisiana Assets, attached hereto and made a part hereof as Appendix I. Said Hold Separate shall continue in effect until such time as respondent has fulfilled the divestiture requirements of this order or until such other time as said Hold Separate provides.

D. Pending the divestiture of the SSH Joint Venture Interest, respondent shall take such actions as are necessary to maintain the present marketability, viability, and competitiveness of the South Seminole Hospital, and to prevent the destruction, removal, wasting, deterioration, or impairment of the South Seminole Hospital, except for ordinary wear and tear.

E. A condition of approval by the Commission of the divestiture of the SSH Joint Venture Interest, to any acquirer except ORHS, shall be a written agreement by the acquirer of the SSH Joint Venture Interest that it will not sell for a period of ten (10) years from the date of divestiture, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission, any interest in South Seminole Hospital to any person who operates, or will operate immediately following the sale, any other acute care hospital in the Orlando area.

IV

It is further ordered That:

A Respondent shall divest, absolutely and in good faith, within nine (9) months of the date the Commission approves the Acquisition pursuant to Paragraph IV.E. of the order in Docket No. C-3538, the Schedule B Assets.

B. Respondent shall also divest such additional Assets and Businesses ancillary to the Schedule B Assets and effect such arrangements as are necessary to assure the marketability, viability, and competitiveness of the Schedule B Assets.

C. Respondent shall divest the Schedule B Assets only to an acquirer

or acquirers that receive the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. The purpose of the divestitures of the Schedule B Assets is to ensure the continuation of the Schedule B Assets as ongoing, viable acute care hospitals and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint and as described in the Commission's letter approving the Acquisition.

D. Respondent shall comply with all terms of the Agreement to Hold Separate regarding the Utah Healthtrust Assets listed on Schedule C, and as described in Appendix II which is attached hereto and made a part hereof ("Utah Hold Separate"). Said Utah Hold Separate shall continue in effect until such time as respondent has fulfilled the divestiture requirements of Paragraph IV of this order, or until such other time as the Utah Hold Separate provides.

E. Pending divestiture of the Schedule B Assets, respondent shall take such actions as are necessary to maintain the present marketability, viability, and competitiveness of the Schedule B Assets and of the Utah Healthtrust Assets, and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Schedule B Assets and any of the Utah Healthtrust Assets, except for ordinary wear and tear.

F. A condition of approval by the Commission of each divestiture shall be a written agreement by the acquirer(s) of each Schedule B Asset that it will not sell for a period of ten (10) years from the date of divestiture, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission, any Schedule B Asset to any person who operates, or will operate immediately following the sale, any other acute care hospital in the same relevant area where the divested acute care hospital is located. Provided, however, that the acquirer is not required to seek prior approval of the Commission for the sale of any of the assets identified in any Part II of Schedule B.

V

It Is further ordered That:

A. If the respondent has not divested (or in the case of the Ville Platte Medical Center has not caused CLHS to divest), absolutely and in good faith and with the Commission's prior approval, each Schedule A Asset and either DRMC or Denton Community Hospital, in accordance with this order, within twelve (12) months of the date this order

becomes final, the Commission may appoint a trustee to divest the undivested Schedule A Assets and either DRMC or Denton Community Hospital.

B. If the respondent has not terminated absolutely and in good faith and with the Commission's prior approval, the SSH Joint Venture, in accordance with this order, within six (6) months of the date this order becomes final, the Commission may appoint a trustee to divest the SSH Joint Venture Interest.

C. If the respondent has not divested, absolutely and in good faith and with the Commission's prior approval, each Schedule B Asset, in accordance with this order within nine (9) months of the date the Commission approves the Acquisition pursuant to the order in Docket No. C-3538, the Commission may appoint a trustee to divest the Utah Healthtrust Assets.

D. In the event that the Commission or the Attorney General brings an action for any failure to comply with this order or in any way relating to the Acquisition, pursuant to section 5(l) of the Federal Trade Commission Act, 15 U.S.C. 45(l), or any other statute enforced by the Commission, the respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under Paragraph V.A, V.B, or V.C shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it for any failure by the respondent to comply with this order, or the order in Docket No. C-3538.

E. If a trustee is appointed by the Commission or a court pursuant to Paragraph V.A, V.B, or V.C of this order, the respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of the respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to respondent of the identity of any proposed trustee, respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest

any undivested Schedule A Asset, DRMC or Denton Community Hospital, the SSH Joint Venture Interest, or Utah Healthtrust Asset.

3. Within ten (10) days after appointment of the trustee, respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture(s) required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph V.E.3 to accomplish the divestiture(s), which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed trustee, by the court; provided however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities related to the Schedule A Assets, DRMC, Denton Community Hospital, the SSH Joint Venture Interest, the Schedule B Assets, the Utah Healthtrust Assets, or to any other relevant information as the trustee may request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestiture(s). Any delays in divestiture caused by respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to the respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture(s) shall be made in the manner and to an acquirer(s) as set forth in Paragraph II for the Schedule A Assets and DRMC or Denton Community Hospital; Paragraph III for the SSH Joint Venture Interest; and Paragraph IV and Paragraph V.C for the Utah Healthtrust Assets; provided, however, if the trustee receives bona fide offers from more than one acquiring entity for any one facility or asset, and if the Commission determines to

approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of the respondent, 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, 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 sale 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 his or her services, all remaining monies shall be paid at the direction of the respondent and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the undivested Schedule A Assets, either DRMC or Denton Community Hospital, the SSH Joint Venture Interest, or the Utah Healthtrust Assets.

8. Respondent 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 liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph V.A, V.B, or V.C of this order.

10. 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(s) required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the Schedule A Assets, DRMC, Denton Community Hospital, the SSH

Joint Venture Interest, or the Utah Healthtrust Assets.

12. The trustee shall report in writing to the respondent and to the Commission every sixty (60) days concerning the trustee's effort to accomplish divestiture.

VI

It is further ordered That, for a period of ten (10) years from the date this order becomes final, respondent shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any person presently engaged in, or within the two years preceding such acquisition engaged in, operating an acute care hospital in any relevant area;

B. Acquire any assets used, or previously used, in any relevant area (and still suitable for use) for operating an acute care hospital from any person presently engaged in, or within the two years preceding such acquisition engaged in, operating an acute care hospital in any relevant area;

C. Enter into any agreement or other arrangement to obtain direct or indirect ownership, management, or control of any acute care hospital, or any part thereof, in any relevant area, including but not limited to, a lease of or management contract for any such acute care hospital;

D. Acquire or otherwise obtain the right to designate, directly or indirectly, directors or trustees of any acute care hospital in any relevant area;

E. Permit any acute care hospital it operates in any relevant area to be acquired by any person that operates, or will operate immediately following such acquisition, any other acute care hospital in the same relevant area.

Provided, however, that such prior approval shall not be required for:

1. the establishment by respondent of a new acute care hospital facility in a relevant area: (a) that is a replacement for an existing acute care hospital facility operated by respondent, and not required to be divested by respondent pursuant to this order, in the same relevant area; or (b) that is not a replacement for any acute care hospital facility in any relevant area;

2. any transaction otherwise subject to this Paragraph VI of this order if the fair market value of (or, in case of an asset acquisition, the consideration to be paid for) the acute care hospital or part thereof to be acquired does not exceed one million dollars (\$1,000,000); or

3. the acquisition of products or services in the ordinary course of business.

VII

It is further ordered That, for a period of ten (10) years from the date this order becomes final, respondent shall not, directly or indirectly, through subsidiaries, partnerships or otherwise, without providing advance written notification to the Commission, consummate any joint venture or other arrangement with any other acute care hospital in any relevant area for the joint establishment or operation of any new acute care hospital, or any hospital, medical, surgical, diagnostic, or treatment service or facility, or part thereof in the same relevant area where both parties operate an acute care hospital. Such advance notification shall be filed immediately upon respondent's issuance of a letter of intent for, or execution of an agreement to enter into, such a transaction, whichever is earlier.

Said notification required by this Paragraph VII of this order shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations (as amended), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification need not be made to the United States Department of Justice, and notification is required only of respondent and not of any other party to the transaction. Respondent is not required to observe any waiting period for said notification required by this Paragraph VII.

Respondent shall comply with reasonable requests by the Commission staff for additional information concerning any transaction subject to this Paragraph VII of this order, within fifteen (15) days of service of such requests.

Provided, however, that no transaction shall be subject to this Paragraph VII of this order if:

1. the fair market value of the assets to be contributed to the joint venture or other arrangement by acute care hospitals not operated by respondent does not exceed one million dollars (\$1,000,000);

2. the service, facility, or part thereof to be established or operated in a transaction subject to this order is to engage in no activities other than the provision of the following services: Laundry; data processing; purchasing; materials management; billing and collection; dietary; industrial engineering; maintenance; printing;

security; records management; laboratory testing; personnel education, testing, or training; or

3. notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a, or prior approval by the Commission is required, and has been requested, pursuant to Paragraph VI of this order.

VIII

It is further ordered That, for a period of ten (10) years from the date this order becomes final, respondent shall not permit all, or any substantial part of, any acute care hospital it operates in any relevant area to be acquired by any other person (except pursuant to the divestitures required by Paragraphs II, III, and IV of this order), unless the acquiring person files with the Commission, prior to the closing of such acquisition, a written agreement to be bound by the provisions of this order, which agreement respondent shall require as a condition precedent to the acquisition.

IX

It is further ordered That:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until the respondent has fully complied with Paragraphs II, III, and IV of this order, respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II, III, and IV of this order. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II, III, and IV of the order, including a description of all substantive contacts or negotiations for the divestitures or the termination of the SSH joint venture, and the identify of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestitures.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and it is complying with Paragraphs V, VI, VII, and VIII of this order.

X

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

XI

It is further ordered That, for the purpose of determining or securing compliance with this order, the respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the respondent relating to any matters contained in this order; and

B. Upon five days' notice to respondent and without restraint or interference from it, to interview officers, directors, or employees of respondent, who may have counsel present regarding such matters.

Schedule A

The assets to be divested pursuant to Paragraph II ("Schedule A Assets") shall consist of, without limitation, all Assets and Businesses (including all improvements, additions and enhancements made to such assets prior to divestiture), of the following:

A. The Pensacola area Schedule A Assets are:

Part I

1. Medical Center of Santa Rosa, Inc., d.b.a. Santa Rosa Medical Center, 1450 Berryhill Road, Milton, Florida 32570

Part II

2. MRI (Magnetic Resonance Imaging)—free-standing modular building attached to hospital by walkway, leased 60 months—originated in 1993.
3. EMS (Emergency Medical Services), 4930 Glover Lane, Milton, Florida 32570
4. Berryhill Medical Park—including undeveloped land Milton, Florida 32570
Master Leased 10 years:
Building 1—1540 Berryhill Medical Park (7,612 sq. ft.)
Building 2—1550 Berryhill Medical Park (5,943 sq. ft.)
Building 3—1560 Berryhill Medical

5. Santa Rosa Primary Care Center, Leased Building at 4928 Highway 90, Pace, Florida 32571
6. Office Space Leases (as Tenant):
3,250 sq. ft. from Pace Medical Center Partnership, 2874 Highway 90, Building A, Pace, Florida 32571
1,360 sq. ft. from Pace Medical Center Partnership, 2874 Highway 90, Building B, Pace, Florida 32571
25,200 sq. ft. from Dave Gilbert, 5950 Berryhill Road, Building 1.3, Santa Rosa, Florida 32570

2. The Okaloosa area Schedule A Assets are:

Part I

1. North Okaloosa Medical Center—Hospital, 151 Redstone Avenue, Crestview, Florida 32539 (with approximately 34 acres of land).

Part II

2. Crestview Professional Condominium Association, Professional Office Buildings, 131 Redstone Avenue, Crestview, Florida 32539 (Suites 101, 103, 104, 105, 107, 108, 109)
3. Lease of North Okaloosa Medical Office Building, 131 Redstone Avenue, Crestview, Florida 32539 (Suites 125, 127 and 129)
4. Lease of Medical Office Building, 127 Redstone Avenue, Crestview, Florida 32539
5. Rural Health Clinic, LaGrange Medical Clinic Building, Rt. 3, Box 16, Highway 331 North, Freeport, Florida 34329
6. Bluewater Bay Clinic, Market Place Professional Center, 1507 Merchants Way, Niceville, Florida 32588
7. Rural Health Clinic, Lease of Access Medical Clinic Building, 130 Redstone Avenue, Crestview, Florida 32539

3. The Ville Platte-Mamou-Opelousas area Schedule A Assets are:

Part I

1. Ville Platte Medical Center, 800 East Main Street, Ville Platte, Louisiana 70586

Part II

2. Lease (expires October 1995) of the Ardwin Physicians Office Building, Ville Platte, Louisiana

Schedule B

The assets to be divested pursuant to Paragraph IV ("Schedule B Assets") shall consist of, without limitation, all Assets and Businesses (including all improvements, additions and enhancements made to such assets prior to divestiture), of the following:

a. The Pioneer Valley Assets are:

Part I

1. Pioneer Valley Hospital, 3460 South Pioneer Park, West Valley City, Utah 84120

Part II

2. Three (3) Medical Office Buildings (on hospital campus)
3. Lease of 69,382 sq. ft. (on hospital campus)
4. Land (empty lot), 40th West Street, West Jordan, Utah 84088
5. Lease of 11,750 sq. ft. (corner of 90th South Street and 27th West Street), West Jordan, Utah 84088
6. Least of 7,134 sq. ft., 150 Wright Bros. Drive, Suite 540, Salt Lake City, Utah 84116
7. Salt Lake Industrial Clinic, 441 S. Redwood Road, Salt Lake City, Utah 84104

B. The Jordan Valley Assets are:

Part I

1. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84088

Part II

2. Three (3) leases of office space (on hospital campus) (12,000 sq. ft.; 3,374 sq. ft; and 4,620 sq. ft)
3. 12% limited liability partnership in South Ridge Professional Plaza (on campus)
4. Lease of Medical Office Building (Perry Realty), South Valley Medical Plaza, 3590 West 9000 South, West Jordan, Utah 84088

C. The Davis Hospital Assets are:

Part I

1. Davis Hospital and Medical Center, 1600 West Antelope Drive, Layton, Utah 84041

Part II

2. Medical Office Building, 1660 West Antelope Drive, Layton, Utah 84041
3. Medical Office Building, 2132 North 1700 West, Layton, Utah 84041

Schedule C—Utah Healthtrust Assets

The Utah Healthtrust Assets shall consist of, without limitation, all Assets and Businesses (including all improvements, additions and enhancements made to such assets prior to divestiture), of Healthtrust in the State of Utah at the time of the Acquisition, including, without limitation, the following:

1. The following facilities:

- a. Pioneer Valley Hospital, 3460 South Pioneer Park, West Valley City, Utah 84120; three (3) medical office buildings on the campus of the hospital; the lease of 69,382 sq. feet on the hospital campus; land (empty lot) at

40th West Street, West Jordan, Utah 84088; lease of 11,750 sq. ft. (corner of 90th South Street and 27th West Street), West Jordan, Utah 84088; and lease of 7,134 sq. ft., 150 Wright Bros. Drive, Suite 540, Salt Lake City, Utah 84116;

b. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84084; three (3) leases of office space on the campus of the hospital (12,000 sq. ft., 3,374 sq. ft., and 4,620 sq. ft.); a 12 percent limited liability partnership in South Ridge Professional Plaza, and the lease of Medical Office Building (Perry Realty), South Valley Medical Plaza; 3590 West 9000 South, West Jordan, Utah 84088;

c. Lakeview Hospital, 630 East Medical Drive, Bountiful, Utah 84010;

d. Brigham City Community Hospital, 950 South 500 West, Brigham City, Utah 84302;

e. Ogden Regional Medical Center, 5475 South 500 East, Ogden, Utah 84405;

f. Castleview Hospital, 300 North Hospital Drive, Price, Utah 84501;

g. Springville Medical Center, 730 East 300 South, Springville, Utah 84663; and

h. Ashley Valley Medical Center, 151 West 200 North, Vernal, Utah 84078; and

2. HTI of Utah, Inc., its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by HTI of Utah or Healthtrust in Utah; their directors, officers, employees, agents, and representatives; and their successors and assigns; and the following corporations and their successors and assigns;

a. Brigham City Community Hospital, Inc.;

b. Castleview Hospital, Inc.;

c. HTI HomeMed of Utah, Inc.;

d. HTI-Managed Care of Utah, Inc.;

e. HTI Physician Services of Utah, Inc.;

f. HTI Utah Data Corporation;

g. Hospital Corporation of Utah;

h. Intergroup Healthcare Corporation of Utah;

i. Medical Services of Salt Lake City, Inc.;

j. MHHE Corporation;

k. Mountain View Hospital, Inc.;

l. Ogden Medical Center, Inc.;

m. Pioneer Valley Hospital, Inc.; and

n. West Jordan Hospital Corporation.

Appendix I—Agreement to Hold Separate Regarding the Florida, Texas, and Louisiana Assets

In the matter of Columbia/HCA Healthcare Corporation, a corporation. File No. 951-0022.

This agreement to Hold Separate Regarding the Florida, Texas and Louisiana Assets

(“Agreement”) is by and between Columbia/HCA Healthcare Corporation (“Columbia/HCA” or “respondent”), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203; and the Federal Trade Commission (“Commission”), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.*

Premises

Whereas, on October 4, 1994, Columbia/HCA and Healthtrust Inc.—The Hospital Company (“Healthtrust”) entered into an agreement whereby Columbia/HCA will acquire all the stock of Healthtrust, a wholly-owned subsidiary of Columbia/HCA will be merged with and into Healthtrust, and Healthtrust will operate as a wholly-owned subsidiary of Columbia (the “Acquisition”); and

Whereas, Columbia/HCA, with its principal place of business at one Park Plaza, Nashville, Tennessee 37203, owns and operates, among other things, acute care hospitals; and

Whereas, the Commission is now investigating the Acquisition to determine if it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (“Consent Order”), which would require the divestiture of certain assets listed in Paragraph II of the Consent Order (“Schedule A Assets and DRMC or Denton Community Hospital”) and termination of certain interests described in Paragraph III of the Consent Order (“SSI Joint Venture”), the Commission must place the Consent Order on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission’s Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the *status quo ante* of the Schedule A Assets, DRMC and the SSI Joint Venture Interest (collectively the “Hold Separate Assets”), during the period prior to the final acceptance and issuance of the Consent Order by the Commission (after the 60-day public comment period), divestitures resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission’s ability to require the divestitures of the Schedule A Assets, DRMC or Denton Community Hospital, and the SSI Joint Venture Interest, and the Commission’s right to have the Hold Separate Assets continue as viable acute care hospitals independent of Columbia/HCA; and

Whereas, the purposes of this Agreement and the Consent Order are to:

(i) preserve the Hold Separate Assets as viable, competitive, and ongoing acute care

hospitals, independent of Columbia/HCA, pending the divestitures of the Schedule A Assets and DRMC or Denton Community Hospital, and the termination of the SSI Joint Venture as required under the terms of the Consent Order;

(ii) prevent interim harm to competition from the operation of the Hold Separate Assets pending the divestitures as required under the terms of the Consent Order;

(iii) remedy any anticompetitive effects of the Acquisition;

Whereas, respondent’s entering into this Agreement shall in no way be construed as an admission by respondent that the Acquisition is illegal; and

Whereas, respondent understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, the parties agree, upon understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission’s agreement that, at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, and unless the Commission determines to reject the Consent Order, it will not seek further relief from respondent with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order to which it is annexed and made a part thereof, and in the event the required divestitures of the Schedule A Assets and DRMC or Denton Community Hospital, and the termination of the SSI Joint Venture are not accomplished, to appoint a trustee to seek divestitures of said assets pursuant to the Consent Order, to seek civil penalties, to seek a court appointed trustee, and/or seek other equitable relief, as follows:

1. Respondent agrees to execute the Agreement Containing Consent Order and be bound by the Consent Order.

2. Respondent agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 2.a or 2.b, it will comply with the provisions of paragraph 3 of this Agreement:

a. three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission’s Rules; or

b. the day after the last of the divestitures of the Schedule A Assets and DRMC or Denton Community Hospital, and the termination of the SSI Joint Venture, as required by the Consent Order, is completed.

3. To ensure the complete independence and viability of the hold Separate Assets, and to assure that no competitive information is exchanged between Columbia/HCA and the managers of the Hold Separate Assets, respondent shall hold the Schedule A Assets, DRMC and the SSI Joint Venture Interest, as they are presently constituted, separate and apart on the following terms and conditions:

a. The Hold Separate Assets, as they are presently constituted, shall be held separate and apart and shall be managed and operated

independently of respondent (meaning her and hereinafter, Columbia/HCA excluding the Hold Separate Assets), except to the extent that respondent must exercise direction and control over such assets to assure compliance with this Agreement or the Consent Order, and except as otherwise provided in this Agreement.

b. Prior to, or simultaneously with the Acquisition, respondent shall organize a distinct and separate legal entity, either a corporation, limited liability company, or general or limited partnership ("New Company") and adopt constituent documents for the New Company that are not inconsistent with other provisions of this Agreement or the Consent Order. Respondent shall transfer (or in the case of the Ville Platte Medical Center, cause the Central Louisiana Healthcare System Limited Partnership ("CLHS") to transfer) all ownership and control of all Hold Separate Assets to the New Company.

c. The board of directors of the New Company, or, in the event respondent organizes an entity other than a corporation, the government body of the entity ("New Board"), shall have three members. Respondent shall elect the members of the New Board. The New Board shall consist of the following three persons: Winfield C. Dunn, Samuel H. Howard, and David C. Colby, provided they agree, or comparable, knowledgeable persons. The Chairman of the New Board shall be: Winfield C. Dunn (provided he agrees), or a comparable, knowledgeable person, who shall remain independent of Columbia/HCA and competent to assure the continued viability and competitiveness of the Hold Separate Assets and the south Seminole Hospital in Longwood, Florida. The New Board shall include no more than one member who is a director, officer, employee, or agent of respondent, who shall be David C. Colby, provided he agrees, or a comparable knowledgeable person ("the respondent's New Board member"). The New Board shall meet monthly during the course of the Hold Separate, and as otherwise necessary. Meetings of the New Board during the term of this Agreement shall be audiographically transcribed and the tapes retained for two (2) years after the termination of this Agreement.

d. Respondent shall not exercise direction or control over, or influence directly or indirectly, the Hold Separate Assets or South Seminole Hospital, the independent Chairman of the Board of the New Company, the New Board, or the New Company or any of its operations or businesses; provided, however, that respondent may exercise only such direction and control over the New Company as is necessary to assure compliance with this Agreement or the Consent Order, or with all applicable laws. In addition, as to the SSH Joint Venture and South Seminole Hospital, only the following individuals within Columbia/HCA and Healthtrust shall have access to or involvement with termination of the SSI Joint Venture or efforts to divest the SSI Joint Venture Interest: Richard L. Scott, Stephen T. Braun, Donald P. Fay, Ashby Q. Burks, Joseph D. Moore, Phillip D. Wheeler, and George M. Garrett.

e. Respondent shall maintain the viability, competitiveness, and marketability of the Hold Separate Assets; shall not sell, transfer, or encumber said Assets (other than in the normal course of business); and shall not cause or permit the destruction, removal, wasting, or deterioration, or otherwise impair their viability, competitiveness, or marketability of said Hold Separate Assets.

f. Except for the respondent's New Board member, respondent shall not permit any director, officer, employee, or agent of respondent to also be a director, officer, or employee of the New Company.

g. The New Company shall be staffed with sufficient employees to maintain the visibility and competitiveness of the Hold Separate Assets, which employees shall be selected from the existing employee base of each facility or entity and may also be hired from sources other than these facilities and entities.

h. With the exception of the respondent's New Board Member, respondent shall not change the composition of the New Board unless the independent Chairman consents. The independent Chairman shall have power to remove members of the New Board for cause and to require respondent to appoint replacement members to the New Board as provided in Paragraph 3.c. Respondent shall not change the composition of the management of the New Company except that the New Board shall have the power to remove management employees for cause.

i. If the independent Chairman ceases to act or fails to act diligently, a substitute Chairman shall be appointed in the same manner as provided in Paragraph 3.c of this Agreement.

j. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating the Acquisition, defending investigations, defending or prosecuting litigation, obtaining legal device, negotiating agreements to divest assets, or complying with this Agreement or the Consent Order, respondent shall not receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about the New Company or the activities of the hospitals operated by the New Board. Access to Material Confidential Information relating to South Seminole Hospital or the SSH Joint Venture, for these limited, stated purposes shall be restricted within Columbia/HCA and Healthtrust to those individuals named in Paragraph 3.d, above. Nor shall the New Company or the New Board receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about respondent and relating to respondent's acute care hospitals. Respondent may receive, on a regular basis, aggregate financial information relating to the New Company necessary and essential to allow respondent to prepare United States consolidated financial reports, tax returns, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph. ("Material Confidential Information," as used herein, means competitively sensitive or proprietary information not independently

known to an entity from sources other than the entity to which the information pertains, and includes, but is not limited to, customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

k. Except as permitted by this Agreement, the respondent's New Board member shall not, in his or her capacity as a New Board member, receive Material Confidential Information and shall not disclose any such information received under this Agreement to respondent, or use it to obtain any advantage for respondent. The respondent's New Board member shall enter a confidentiality agreement prohibiting disclosure of Material Confidential Information. The respondent's New Board member shall participate in matters that come before the New Board only for the limited purposes of considering a capital investment or other transaction exceeding \$250,000, approving any proposed budget and operating plans, and carrying out respondent's responsibilities under this Agreement and the Consent Order. Except as permitted by this Agreement, the respondent's New Board member shall not participate in any matter, or attempt to influence the votes of the other members of the New Board with respect to matters, that would involve a conflict of interest if respondent and the New Company were separate and independent entities.

l. Any material transaction of the New Company that is out of the ordinary course of business must be approved by a majority vote of the New Board; provided that the New Company shall engage in no transaction, material or otherwise, that is precluded by this Agreement.

m. If necessary, respondent shall provide the New Company with sufficient working capital to operate the Hold Separate Assets at their respective current rates of operation, to meet any capital calls anticipated in respect of the SSH Joint Venture, and to carry out any capital improvement plans for the Schedule A Assets, DRMC and the South Seminole Hospital that have already been approved.

n. Columbia/HCA shall continue to provide the same support services to the Hold Separate Assets as are being provided to such assets by Columbia/HCA or Healthtrust as of the date this Agreement is signed. Columbia/HCA may charge the Hold Separate Assets the same fees, if any, charged by Columbia/HCA or Healthtrust for such support services as of the date of this Agreement. Columbia/HCA personnel providing such support services must retain and maintain all Material Confidential Information of the Hold Separate Assets on a confidential basis, and, except as if permitted by this Agreement, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of respondent's businesses. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Material Confidential Information of the Hold Separate Assets.

o. During the period commencing on the date this Agreement is effective and

terminating on the earlier of (i) twelve (12) months after the date the Consent Order becomes final, or (ii) the date contemplated by subparagraph 2.b (the "Initial Divestiture Period"), respondent shall make available for use by the New Company funds sufficient to perform all necessary routine maintenance to, and replacement of, the Hold Separate Assets ("normal repair and replacement"). Provided, however, that in any event, respondent shall provide the New Company with such funds as are necessary to maintain the viability, competitiveness, and marketability of such Assets.

p. Columbia/HCA shall circulate, to its management employees responsible for the operation of acute care hospitals in any of the relevant areas defined in the Consent Order in this matter, a notice of this Hold Separate and Consent Order in the form attached as Attachment A.

q. The New Board shall serve at the cost and expense of Columbia/HCA. Columbia/HCA shall indemnify the New Board against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the New Board directors.

r. The New Board shall have access to and be informed about all companies who inquire about, seek, or propose to buy any Hold Separate Asset.

s. Within thirty days (30) after the date this Agreement is accepted by the Commission and every thirty (30) days thereafter until this Agreement terminates, the New Board shall report in writing to the Commission concerning the New Board's efforts to accomplish the purposes of this Hold Separate. In addition, within thirty days (30) after the date this Agreement is accepted by the Commission and every thirty (30) thereafter until this Agreement terminates, respondent shall file with the Commission a verified written report, setting forth, among other things that may be required from time to time, a detailed memorialization of all communications, both intra-company and with third parties, relating to the termination of the SSH Joint Venture.

4. Should the Commission seek in any proceeding to compel respondent to divest any of the Hold Separate Assets, as provided in the Consent Order, or to seek any other injunctive or equitable relief for any failure to comply with the Consent Order or this Agreement, or in any way relating to the Acquisition, as defined in the draft of complaint, respondent shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Respondent also waives all rights to contest the validity of this Agreement.

5. To the extent that this Agreement requires respondent to take, or prohibits respondent from taking, certain actions that otherwise may be required or prohibited by contract, respondent shall abide by the terms of this Agreement or the Consent Order and shall not assert as a defense such contract requirements in a civil penalty action

brought by the Commission to enforce the terms of this Agreement or Consent Order.

6. For the purposes of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, and upon written request with reasonable notice to respondent made to its principal office, respondent shall permit any duly authorized representatives of the Commission:

a. Access, during office hours of respondent and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of the respondent relating to compliance with this Agreement;

b. Upon five (5) days' notice to respondent and without restraint or interference from respondent, to interview officers, directors, or employees of respondent, who may have counsel present, regarding such matters.

7. This Agreement shall not be finding until approved by the Commission.

Attachment A—Notice of Divestiture and Requirement for Confidentiality

Columbia/HCA Healthcare Corporation and Healthtrust Inc.—The Hospital Company have entered into a Consent Agreement and Agreement to Hold Separate with the Federal Trade Commission relating to the divestiture of certain Healthtrust and Columbia/HCA acute care hospitals and the termination of a joint venture agreement ("Assets"). The hospitals to be divested include:

1. Santa Rosa Medical Center, 1450 Berryhill Road, Milton, Florida 32572.
2. North Okaloosa Medical Center, 151 Redstone Avenue Southeast, Crestview, Florida 32536.
3. Denton Regional Medical Center, 4405 North Interstate 35, Denton, Texas 76207 or the Denton Community Hospital, 107 N. Bonnie Brae, Denton, Texas 76201.
4. Ville Platte Medical Center, 800 East Main Street, Ville Platte, Louisiana 70586.
5. Davis Hospital and Medical Center, 1600 West Antelope Drive, Layton, Utah 84041.
6. Pioneer Valley Hospital, 3460 South Pioneer Parkway, West Valley City, Utah 84120, including the Salt Lake Industrial Clinic, 441 S. Redwood Road, Salt Lake City, Utah 84104.
7. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84088.

The joint venture agreement that must be terminated involves the joint venture that owns South Seminole Hospital in Longwood, Florida. Columbia/HCA and Healthtrust must terminate the joint venture either by selling Healthtrust's interest in the joint venture or by acquiring the other joint venture partner's interest.

Until after the FTC's Order becomes final and the Assets are divested, the Assets must be managed and maintained as separate, ongoing businesses, independent of all other Columbia/HCA businesses. All competitive information relating to the Assets must be retained and maintained by the persons involved in the operation of the Assets on a confidential basis, and such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise

furnishing any such information to or with any other person whose employment involves any other Columbia/HCA business. Similarly, all such persons involved in Columbia/HCA shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any of the Assets.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject Columbia/HCA to civil penalties and other relief as provided by law.

Appendix II—Agreement to Hold Separate Regarding the Utah Healthtrust Assets

In the matter of Columbia/HCA Healthcare Corporation, a corporation. File No. 951-0022.

This Agreement to Hold Separate Regarding the Utah Healthtrust Assets ("Agreement") is by and between Columbia/HCA Healthcare Corporation ("Columbia/HCA" or "respondent"), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203; and the Federal Trade Commission ("Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.*

Premises

Whereas, on October 4, 1994, Columbia/HCA and Healthtrust Inc.—The Hospital Company ("Healthtrust") entered into an agreement whereby Columbia/HCA will acquire all the stock of Healthtrust, a wholly-owned subsidiary of Columbia/HCA will be merged with and into Healthtrust, and Healthtrust will operate as a wholly-owned subsidiary of Columbia (the "Acquisition"); and

Whereas, on October 20, 1994, the Commission, with the consent of Healthtrust, issued its complaint and made final its Order to settle charges that the acquisition by Healthtrust of certain assets of Holy Cross Health System Corporation violated Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45 (*In the Matter of Healthtrust, Inc.—The Hospital Company*, Docket No. C-3538); and

Whereas, the Order in Docket No. C-3538 provides that for a period of ten (10) years, Healthtrust shall not permit any acute care hospital it operates in the Three-County Area of Utah, as defined in Paragraph I.G. of the Order in Docket No. C-3538, to be acquired, without the prior approval of the Commission, by any person that operates any other acute care hospital in the Three-County Area; and

Whereas, on February 15, 1995, Healthtrust petitioned the Commission to approve the sale of four Healthtrust acute care hospitals (the "Utah Healthtrust Hospitals") to Columbia/HCA; and

Whereas, Columbia/HCA, with its principal place of business at One Park Plaza,

Nashville, Tennessee 37203, owns and operates, among other things, acute care hospitals in the Three-County Area of Utah, and elsewhere; and

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission and whether the Commission should approve the Acquisition pursuant to the Order in *In the Matter of Healthtrust, Inc.—The Hospital Company*, Docket No. C-3538; and

Whereas, the Commission has determined to grant Healthtrust the prior approval required for its sale of the Utah Healthtrust Hospitals to Columbia/HCA, conditioned, however, upon Columbia/HCA divesting, as required by the Agreement Containing Consent Order ("Consent Agreement" or "Consent Order"), to which this Hold Separate is attached and made a part thereof as Appendix II, three Utah hospitals and related assets (the "Schedule B Assets" as defined in Paragraph I of the Consent Order); and

Whereas, if the Commission accepts the Consent Order, which would require the divestiture of the Schedule B Assets pursuant to Paragraph IV of the Consent Order, the Commission must place the Consent Order on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the *status quo ante* of the Utah Healthtrust Assets, as identified in Schedule C to the Consent Order, during the period prior to the final acceptance and issuance of the Consent Order by the Commission (after the 60-day public comment period), divestitures resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, if the Commission accepts the Consent Order, and Columbia/HCA has not divested with the Commission's prior approval, each Schedule B Asset, in accordance with the Consent Order, within nine (9) months of the date the Commission conditionally approves the Acquisition pursuant to the order in Docket No. C-3538, the Commission may appoint a trustee to divest the Utah Healthtrust Assets, as identified in Schedule C to the Consent Order; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestitures of the Utah Healthtrust Assets and the Commission's right to have the Utah Healthtrust Assets continue as viable acute care hospitals independent of Columbia/HCA; and

Whereas, the purposes of this Agreement and the Consent Order are to:

(i) preserve the Utah Healthtrust Assets as viable, competitive, and ongoing acute care hospitals, independent of Columbia/HCA, pending the divestitures of the Schedule B Assets or the Utah Healthtrust Assets as required under the terms of the Consent Order; and

(ii) prevent interim harm to competition from the operation of the Utah Healthtrust Assets pending divestitures of the Schedule B Assets or the Utah Healthtrust Assets as required under the terms of the Consent Order; and

(iii) remedy any anticompetitive effects of the Acquisition;

Whereas, respondent's entering into this Agreement shall in no way be construed as an admission by respondent that the Acquisition is illegal; and

Whereas, respondent understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, the parties agree, upon understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's conditional approval of the Acquisition and its agreement that, at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, and unless the Commission determines to reject the Consent Order, it will not seek further relief from respondent with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order to which it is annexed and made a part thereof, and the Order in Docket No. C-3538, and in the event the required divestitures of the Schedule B Assets are not accomplished, to appoint a trustee to seek divestitures of the Utah Healthtrust Assets pursuant to the Consent Order, to seek civil penalties, to seek a court appointed trustee, and/or to seek other equitable relief, as follows:

1. Respondent agrees to execute the Agreement Containing Consent Order and be bound by the attached Consent Order.

2. Respondent agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 2.a or 2.b, it will comply with the provisions of paragraph 3 of this Agreement:

a. three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules; or

b. the day after the last of the divestitures of the Schedule B Assets or the Utah Healthtrust Assets, as required by the Consent Order, is completed.

3. To ensure the complete independence and viability of the Utah Healthtrust Assets, and to assure that no competitive information is exchanged between Columbia/HCA and the managers of the Utah Healthtrust Assets, respondent shall hold the Utah Healthtrust Assets, as they are presently constituted, separate and apart on the following terms and conditions:

a. The Utah Healthtrust Assets, as they are presently constituted, shall be held separate and apart and shall be managed and operated independently of respondent (meaning here and hereinafter, Columbia/HCA excluding the Utah Healthtrust Assets), except to the extent that respondent must exercise direction and control over such assets to

assure compliance with this Agreement or the Consent Order, and except as otherwise provided in this Agreement.

b. Prior to, or simultaneously with the Acquisition, respondent shall transfer all ownership and control of all Utah Healthtrust Assets to HTI of Utah, Inc.

c. The board of directors of HTI of Utah, Inc. ("HTI Board"), shall have three members. Respondent shall elect the members of the HTI Board. The HTI Board shall consist of the following three persons: (i) Kent H. Wallace; (ii) Kenneth W. Perry; and (iii) David C. Colby, provided they agree, or comparable, knowledgeable persons. The Chairman of the HTI Board shall be Kent H. Wallace, provided he agrees, or a comparable knowledgeable person, who shall remain independent of Columbia/HCA and competent to assure the continued viability and competitiveness of the Healthtrust Utah Assets. The HTI Board shall include no more than one member who is a director, officer, employee, or agent of respondent, who shall be David C. Colby, provided he agrees, or a comparable, knowledgeable person ("the respondent's HTI Board member"). The HTI Board shall meet monthly during the course of the Hold Separate, and as otherwise necessary. Meetings of the HTI Board during the term of this Agreement shall be audiographically transcribed and the tapes retained for two (2) years after the termination of this Agreement.

d. Respondent shall not exercise direction or control over, or influence directly or indirectly, the Utah Healthtrust Assets, the independent Chairman of the Board of the HTI of Utah Inc., HTI of Utah Inc., or any of its operations or businesses; provided, however, that respondent may exercise only such direction and control over HTI of Utah Inc. as is necessary to assure compliance with this Agreement or the Consent Order, or with all applicable laws.

e. Respondent shall maintain the viability, competitiveness, and marketability of the Utah Healthtrust Assets, shall not sell, transfer, or encumber said Assets (other than in the normal course of business); and shall not cause or permit the destruction, removal, wasting, or deterioration, or otherwise impair their viability, competitiveness, or marketability of said Assets.

f. Except for the respondent's HTI Board member, respondent shall not permit any director, officer, employee, or agent of respondent to also be a director, officer, or employee of HTI of Utah Inc.

g. HTI Utah of Utah Inc. shall be staffed with sufficient employees to maintain the viability and competitiveness of the Utah Healthtrust Assets, which employees shall be selected from the existing employee base of each facility or entity and may also be hired from sources other than these facilities and entities.

h. With the exception of the respondent's HTI Board Member, respondent shall not change the composition of the HTI Board unless the independent Chairman consents. The independent Chairman shall have power to remove members of the HTI Board for cause and to require respondent to appoint replacement members to the New Board as provided in Paragraph 3.c. Respondent shall

not change the composition of the management of HTI of Utah Inc., except that the HTI Board shall have the power to remove management employees for cause.

i. If the independent Chairman ceases to act or fails to act diligently, a substitute Chairman shall be appointed in the same manner as provided in Paragraph 3.c of this Agreement.

j. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating the Acquisition, defending investigations, defending or prosecuting litigation, obtaining legal advice, negotiating agreements to divest assets, or complying with this Agreement or the Consent Order, respondent shall not receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about HTI of Utah Inc., or the activities of or the hospitals operated by the HTI Board. Nor shall HTI of Utah Inc. or the HTI Board receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about respondent and relating to respondent's acute care hospitals.

Respondent may receive, on a regular basis, aggregate financial information relating to HTI of Utah Inc. necessary and essential to allow respondent to prepare United States consolidated financial reports, tax returns, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph. ("Material Confidential Information," as used herein, means competitively sensitive or proprietary information not independently known to an entity from sources other than the entity to which the information pertains, and includes, but is not limited to, customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

k. Except as permitted by this Agreement, the respondent's HTI Board member shall not, in his or her capacity as an HTI Board member, receive Material Confidential Information and shall not disclose any such information received under this Agreement to respondent, or use it to obtain any advantage for respondent. The respondent's HTI Board member shall enter a confidentiality agreement prohibiting disclosure of Material Confidential Information. The respondent's HTI Board member shall participate in matters that come before the HTI Board only for the limited purposes of considering a capital investment or other transaction exceeding \$250,000, approving any proposed budget and operating plans, and carrying out respondent's responsibilities under this Agreement and the Consent Order. Except as permitted by this Agreement, the respondent's HTI Board member shall not participate in any matter, or attempt to influence the votes of the other members of the HTI Board with respect to matters, that would involve a conflict of interest if respondent and HTI of Utah Inc. were separate and independent entities.

l. Any material transaction of HTI of Utah Inc. that is out of the ordinary course of business must be approved by a majority vote

of the HTI Board; provided that HTI of Utah Inc. shall engage in no transaction, material or otherwise, that is precluded by this Agreement.

m. If necessary, respondent shall provide HTI of Utah Inc. with sufficient working capital to operate the Utah Healthtrust Assets at their respective current rates of operation and to carry out any capital improvement plans for the Utah Healthtrust Assets that have already been approved.

n. Columbia/HCA shall continue to provide the same support services to the Utah Healthtrust Assets, as are being provided to such Assets by Healthtrust as of the date this Agreement is signed. Columbia/HCA may charge the HTI of Utah Inc. the same fees, if any, charged by Healthtrust for such support services as of the date of this Agreement. Columbia/HCA personnel providing such support services must retain and maintain all material confidential information of the Utah Healthtrust Assets on a confidential basis, and, except as is permitted by this Agreement, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of respondent's businesses. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Material Confidential Information of the Utah Healthtrust Assets.

o. During the period commencing on the date this Agreement is effective and terminating on the earlier of (i) twelve (12) months after the date the Consent Order becomes final, or (ii) the date contemplated by subparagraph 2.b (the "Initial Divestiture Period"), respondent shall make available for use by HTI of Utah Inc. funds sufficient to perform all necessary routine maintenance to, and replacements of, the Utah Healthtrust Assets ("normal repair and replacement"). Provided, however, that in any event, respondent shall provide HTI of Utah Inc. with such funds as are necessary to maintain the viability, competitiveness, and marketability of such Assets.

p. Columbia/HCA shall circulate, to its management employees responsible for the operation of acute care hospitals in any of the relevant areas defined in the Consent Order in this matter, a notice of this Hold Separate and Consent Order in the form attached as Attachment A.

q. The HTI Board shall serve at the cost and expense of Columbia/HCA. Columbia/HCA shall indemnify the HTI Board against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the HTI Board directors.

r. The HTI Board shall have access to and be informed about all companies who inquire about, seek, or propose to buy any Schedule B Assets or the Utah Healthtrust Assets.

s. Within thirty (30) days after the date this Agreement is accepted by the Commission and every thirty (30) days thereafter until this Agreement terminates, the HTI Board shall report in writing to the Commission concerning the HTI Board's efforts to

accomplish the purposes of this Hold Separate.

4. Should the Commission seek in any proceeding to compel respondent to divest any of the Schedule B Assets or the Utah Healthtrust Assets, as provided in the Consent Order, or to seek any other injunctive or equitable relief for any failure to comply with the Consent Order or this Agreement, or in any way relating to the acquisition, as defined in the draft of complaint, respondent shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Respondent also waives all rights to contest the validity of this Agreement.

5. To the extent that this Agreement requires respondent to take, or prohibits respondent from taking, certain actions that otherwise may be required or prohibited by contract, respondent shall abide by the terms of this Agreement or the Consent Order and shall not assert as a defense such contract requirements in a civil penalty action brought by the Commission to enforce the terms of this Agreement or Consent Order.

6. For the purposes of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, and upon written request with reasonable notice to respondent made to its principal office, respondent shall permit any duly authorized representatives of the Commission:

a. Access, during office hours of respondent and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of the respondent relating to compliance with this Agreement;

b. Upon five (5) days' notice to respondent and without restraint or interference from respondent, to interview officers, directors, or employees of respondent, who may have counsel present, regarding such matters.

7. This Agreement shall not be binding until approved by the Commission.

Attachment A—Notice of Divestiture and Requirement for Confidentiality

Columbia/RCA Healthcare Corporation and Healthtrust Inc.—The Hospital Company have entered into a Consent Agreement and Agreement to Hold Separate with the Federal Trade Commission relating to the divestiture of certain Healthtrust and Columbia/HCA acute care hospitals and the termination of a joint venture agreement ("Assets"). The hospitals to be divested include:

1. Santa Rosa Medical Center, 1450 Berryhill Road, Milton, Florida 32572.
2. North Okaloosa Medical Center, 151 Redstone Avenue Southeast, Crestview, Florida 32536.
3. Denton Regional Medical Center, 4405 North Interstate 35, Denton, Texas 76207 or the Denton Community Hospital, 107 N. Bonnie Brae, Denton, Texas 76201.
4. Ville Platte Medical Center, 800 East Main Street, Ville Platte, Louisiana 70586.
5. Davis Hospital and Medical Center, 1600 West Antelope Drive, Layton, Utah 84041.

6. Pioneer Valley Hospital, 3460 South Pioneer Parkway, West Valley City, Utah 84120, including the Salt Lake Industrial Clinic, 441 S. Redwood Road, Salt Lake City, Utah 84104.

7. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84088.

The joint venture agreement that must be terminated involves a joint venture that owns South Seminole Hospital in Longwood, Florida. Columbia/HCA and Healthtrust must terminate the joint venture either by selling Healthtrust's interest in the joint venture or by acquiring the other joint venture partner's interest.

Until after the FTC's Order becomes final and the Assets are divested, the Assets must be managed and maintained as separate, ongoing businesses, independent of all other Columbia/HCA businesses. All competitive information relating to the Assets must be retained and maintained by the persons involved in the operation of the Assets on a confidential basis, and such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Columbia/HCA business. Similarly, all such persons involved in Columbia/HCA shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any of the Assets.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject Columbia/HCA to civil penalties and other relief as provided by law.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, a proposed consent order from Columbia/HCA Healthcare Corporation ("Columbia/HCA"). The agreement is designed to remedy anticompetitive effects stemming from Columbia/HCA's proposed acquisition of Healthtrust, Inc.—The Hospital Company ("Healthtrust").

The proposed consent order has been placed on the public record for sixty days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Columbia/HCA and Healthtrust both own and/or operate acute care hospitals in various localities around the country. The Commission's draft complaint accompanying the proposed consent order charges that on or about October 4, 1994, Columbia/HCA agreed to acquire all the stock of Healthtrust, and that the Commission has reason to believe that the acquisition, as well as the agreement to enter into the acquisition, may substantially lessen competition, in violation of Section 7 of the Clayton Act and Section 5 of the FTC Act.

According to the draft complaint, the proposed acquisition may have an anticompetitive impact upon competition for acute care hospital services in six localities ("relevant areas") where Columbia/HCA and Healthtrust are direct competitors. The complaint alleges that the acute care hospital services market in each area is already highly concentrated, and entry by new competitors would be difficult. The complaint alleges that the Commission has reason to believe that the acquisition would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act, unless an effective remedy eliminates the anticompetitive effects. The relevant areas in which the complaint alleges the acquisition may lessen competition, and the hospitals Columbia/HCA and Healthtrust own and/or operate in each relevant area, are as follows:

(1) The Pensacola area, which encompasses the Florida counties of Escambia and Santa Rosa. Columbia/HCA's acute care hospital in this area is the West Florida Regional Medical Center, in Pensacola; and Healthtrust's acute care hospital in this area is the Santa Rosa Medical Center, in Milton.

(2) The Okaloosa area, which encompasses the Florida county of Okaloosa. Columbia/HCA's acute care hospitals in this area are Twin Cities Hospital, in Niceville; Fort Walton Beach Medical Center, in Ft. Walton Beach; and Destin Community Hospital, in Destin. Healthtrust's acute care hospital in this area is North Okaloosa Medical Center, in Crestview.

(3) The Denton area, encompassing the Texas counties of Cooke and Denton (excluding the incorporated city of Lewisville and that portion of Denton County south of Texas highway number 121). Columbia/HCA's acute care hospital in this area is Denton Community Hospital, in Denton; and Healthtrust's acute care hospital in this area is Denton Regional Medical Center, also in Denton.

(4) The Ville Platte-Mamou-Opelousas area, encompassing the Louisiana parishes of Evangeline and St. Landry. Columbia/HCA's acute care hospital in this area is the Ville Platte Medical Center, in Ville Platte; and Healthtrust's acute care hospitals in this area are Savoy Medical Center, in Savoy, and Doctors Hospital of Opelousas, in Opelousas.

(5) The Salt Lake City—Ogden Metropolitan Statistical Area ("MSA"), encompassing three contiguous counties in northern Utah: Weber County, Davis County, and Salt Lake County. This area includes the Salt Lake City area (encompassing Salt Lake County and southern Davis County) and the Ogden area (encompassing Weber County and northern Davis County). Columbia/HCA's acute care hospitals in the MSA are Davis Hospital and Medical Center, in Layton, and St. Mark's Hospital, in Salt Lake City. Healthtrust's acute care hospitals in the MSA are Pioneer Valley Hospital, in West Valley City; Jordan Valley Hospital, in West Jordan; Lakeview Hospital, in Bountiful; and Ogden Regional Medical Center, in Ogden.

(6) The Orlando area, encompassing the Florida counties of Seminole, Orange, and Osceola. Columbia/HCA's acute care hospitals in this area are Central Florida Regional Hospital, in Sanford; Columbia Park

Medical Center, in Orlando; Osceola Regional Hospital, in Kissimmee; and Winter Park Memorial Hospital, in Winter Park. Healthtrust's acute care hospital in this area is South Seminole Hospital, in Lakewood. The complaint further alleges that South Seminole Hospital is jointly owned by Healthtrust and the Orlando Regional Health System ("ORHS"), and that ORHS operates four additional hospitals in the Orlando area.

Healthtrust is subject to a prior Commission order issued in *Healthtrust, Inc.—The Hospital Company*, Docket No. C-3538. Under that order, Healthtrust must obtain prior Commission approval before transferring its hospitals in the Salt Lake City area to anyone who operates other hospitals in that relevant area. Healthtrust requested the Commission's prior approval to transfer its hospitals in the Salt Lake City area to Columbia/HCA, and the Commission granted that approval at the same time it accepted this consent agreement with Columbia/HCA for public comment.

The consent order, if issued in final form by the Commission, would settle charges that the acquisition may substantially lessen competition in the six relevant areas. The order contains provisions requiring divestiture by Columbia/HCA of the following acute care hospitals, in five of the relevant areas:

(1) The Pensacola area—Healthtrust's Santa Rosa Medical Center, in Milton;

(2) The Okaloosa area—Healthtrust's North Okaloosa Medical Center, in Crestview;

(3) The Denton area—Healthtrust's Denton Regional Medical Center, in Denton, or in the alternative, Columbia/HCA's Denton Community Hospital, also in Denton;

(4) The Ville Platte-Mamou-Opelousas area—Columbia's Ville Platte Medical Center, in Ville Platte; and

(5) The Salt Lake City—Ogden MSA—Columbia/HCA's Davis Hospital and Medical Center, in Layton, and Healthtrust's Pioneer Valley Hospital, in West Valley City and Jordan Valley Hospital, in West Jordan.

The purpose of these hospital divestitures is to maintain the scope and intensity of competition among general acute care hospitals in each of the foregoing areas, as existed before the acquisition.

In addition, in the Orlando area, Columbia must terminate the joint venture with ORHS in the South Seminole Hospital, in Lakewood, either by buying out the co-venturer's interest, or by selling Healthtrust's interest in the venture. The purpose of the divestiture in the Orlando area is to prevent two major competitors, Columbia/HCA and ORHS, from sharing ownership of the South Seminole Hospital.

The proposed order requires Columbia/HCA to obtain the approval of the Commission for the divestiture of the hospitals in the relevant areas. Under the terms of the order, the required divestitures in four of the areas, the Pensacola area, the Okaloosa area, the Denton area, and the Ville Platte-Mamou-Opelousas area, must be completed within twelve months of the date the order becomes final. In the Salt Lake City—Ogden MSA, Columbia/HCA must divest the identified hospitals within nine months of the date the Commission granted

prior approval for Healthtrust to transfer its hospitals to Columbia/HCA. In the Orlando area, Columbia/HCA must terminate Healthtrust's participation in the South Seminole Hospital within six months of the date the order becomes final.

If the required divestitures in the Pensacola area, the Okaloosa area, the Denton area, and the Ville Platte-Mamou-Opelousas area, are not completed within twelve months, Columbia/HCA would consent to the appointment of a trustee, who would have twelve additional months to effect the divestitures. If the required divestitures in the Salt Lake City-Ogden MSA are not completed within nine months, Columbia/HCA would consent to the appointment of a trustee, who would have twelve months to sell all the Utah assets of Healthtrust, including all the Healthtrust hospitals in Utah. If the joint venture in Orlando is not terminated within six months, Columbia/HCA would consent to the appointment of a trustee, who would have twelve months to sell Healthtrust's interest in the joint venture.

The two hold-separate agreements executed in conjunction with the consent agreement require Columbia/HCA, until the completion of the divestitures or as otherwise specified, to hold separate and preserve the assets and businesses necessary to insure the viability and marketability of the assets to be divested, including all of Healthtrust's assets in the state of Utah. The proposed order provides that approval by the Commission of the divestitures shall be conditioned upon the agreement by the acquirers that, for ten years from the date of the divestiture, it will not sell, without the prior approval of the Commission, to another person operating (or in the process of acquiring) any acute care hospital in the same relevant area.

The order would prohibit Columbia/HCA from acquiring any acute care hospital in any of the six relevant areas without the prior approval of the Federal Trade Commission. It would also prohibit Columbia/HCA from transferring, without prior Commission approval, any acute care hospital it operates in any relevant area to another person operating (or in the process of acquiring) an acute care hospital in the same relevant area. These provisions, in combination, would give the Commission authority to prohibit any substantial combination of the acute care hospital operations of Columbia/HCA with those of any other acute care hospital in the same relevant area, unless Columbia/HCA convinced the Commission that a particular transaction would not endanger competition in that relevant area. The provisions would not apply to acquisitions or sales where the value of the transferred assets is \$1 million or less, and the provisions would expire ten years after the order becomes final.

For ten years, the order would prohibit Columbia/HCA from transferring all or any substantial part of any acute care hospital in any relevant area to another party without first filing with the Commission an agreement by the transferee to be bound by the order.

The purpose of this analysis is to invite public comment concerning the proposed order, to assist the Commission in its determination whether to make the order

final. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify their terms in any way.

The agreement is for settlement purposes only and does not constitute an admission by Columbia/HCA that its proposed acquisition would have violated the law, as alleged in the Commission's complaint.

Donald S. Clark,

Secretary.

[FR Doc. 95-12589 Filed 5-22-95; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3569]

**Del Monte Foods Company, et al.;
Prohibited Trade Practices, and
Affirmative Corrective Actions**

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, Del Monte Corporation and Pacific Coast Producers to terminate the purchase option agreement and the provisions of the supply agreement that relate to planning for the 1995 canning season within three days after this order becomes final, and to terminate the remaining provisions of the supply agreement by June 30, 1995. In addition, the order requires the California-based respondents to obtain, for ten years, Commission approval before acquiring any stock or assets of a United States canned fruit manufacturer and before entering into a variety of marketing, packing, or other agreements with competitors.

DATES: Complaint and Order issued April 11, 1995.¹

FOR FURTHER INFORMATION CONTACT: Ronald Rowe, FTC/S-2105, Washington, DC 20580. (202) 326-2610.

SUPPLEMENTARY INFORMATION: On Friday, January 27, 1995, there was published in the **Federal Register**, 60 FR 5397, a proposed consent agreement with analysis in the Matter of Del Monte Foods Company, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form

¹ Copies of the Complaint, the Decision and Order, and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 95-12586 Filed 5-22-95; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. 9263]

**National Dietary Research, Inc., et al.;
Proposed Consent Agreement with
Analysis To Aid Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Florida-based corporation and its owner from making claims regarding weight loss, hunger reduction, calorie absorption, cholesterol reduction, effects on cellulite or body measurements, or any other health benefits of any product or program they advertise or sell, unless the respondents possess competent and reliable scientific evidence to substantiate the claims. Also, the consent agreement would prohibit the respondents from misrepresenting test results, from representing that any advertisement is something other than a paid advertisement, and from representing that an endorsement is typical of the experience of consumers who use the product, unless the claim is substantiated. In addition, the consent agreement would require National Dietary Research to pay \$100,000 to the Commission.

DATES: Comments must be received on or before July 24, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston or Richard Cleland, FTC/S-4002, Washington, DC 20580. (202) 326-3153 or 326-3088.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following