

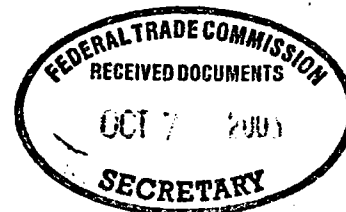
UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

PUBLIC

IN THE MATTER OF

NORTH TEXAS SPECIALTY PHYSICIANS,
A CORPORATION.

Docket No. 9312



ANSWER OF RESPONDENT NORTH TEXAS SPECIALTY PHYSICIANS
TO COMPLAINT OF FEDERAL TRADE COMMISSION

Pursuant to 16 C.F.R. § 3.12, Respondent North Texas Specialty Physicians ("NTSP") hereby answers the Complaint of the Federal Trade Commission as follows:

Except to the extent specifically admitted herein, NTSP denies every allegation contained in the Complaint.

ANSWER

Answering the Federal Trade Commission's Complaint by paragraph:

1. NTSP admits the factual allegations contained in Paragraph 1.
2. NTSP denies the factual allegations contained in Paragraph 2.
3. NTSP admits that it is a memberless corporation under state law. NTSP denies the remainder of the factual allegations contained in Paragraph 3.
4. NTSP denies the factual allegations contained in Paragraph 4.
5. With respect to Paragraph 5, NTSP admits that it has approximately 600 participating physicians licensed to practice medicine in the state of Texas who provide services to patients in areas including the Dallas-Fort Worth metropolitan area. NTSP denies the remainder of the factual allegations in Paragraph 5.
6. NTSP admits the factual allegations in the first sentence of Paragraph 6. NTSP lacks sufficient knowledge to admit or deny the remainder of the factual allegations in Paragraph 6.
7. NTSP admits the factual allegation in Paragraph 7 that competing physicians decide individually whether to enter into contracts with payors to provide services to their subscribers or enrollees, and what prices they will accept pursuant to such contracts. NTSP denies the remainder of the factual allegations contained in Paragraph 7.

8. NTSP admits the factual allegations contained in the first two sentences of Paragraph 8. NTSP denies the remainder of the factual allegations contained in Paragraph 8 to the extent it has knowledge and otherwise lacks sufficient knowledge to admit or deny such allegations.
9. NTSP denies the factual allegations contained in Paragraph 9.
10. NTSP admits the factual allegations contained in the first sentence of Paragraph 10. NTSP denies the factual allegations contained in the second sentence of Paragraph 10.
11. NTSP denies the factual allegations contained in Paragraph 11.
12. NTSP denies the factual allegations contained in Paragraph 12.
13. NTSP admits the factual allegations contained in the first two sentences of Paragraph 13. NTSP denies the factual allegations contained in the third and fourth sentences of Paragraph 13. With respect to the factual allegations contained in the last sentence of Paragraph 13, NTSP admits that approximately 600 physicians presently are participating physicians, some of whom are primary care physicians, but denies the remainder of the factual allegations in that sentence.
14. With respect to Paragraph 14, NTSP admits that, pursuant to some of NTSP's contracts with payors, some of NTSP's physicians share financial risk. NTSP further admits that, pursuant to some of NTSP's contracts with payors, some of NTSP's physicians receive a specified fee for each service provided. NTSP denies the remainder of the factual allegations contained in Paragraph 14.
15. With respect to Paragraph 15, NTSP admits that physicians seeking to participate in NTSP-payor contracts submit an application and that a physician becomes a participating physician by entering into an agreement with NTSP. NTSP denies the remainder of the factual allegations contained in Paragraph 15.
16. NTSP denies the factual allegations contained in Paragraph 16.
17. With respect to Paragraph 17, NTSP admits that it has, at times, polled its participating physicians, performed limited calculations related to that polling, and informed its participating physicians of those calculations. NTSP denies the remainder of the factual allegations contained in Paragraph 17.
18. With respect to Paragraph 18, NTSP admits that it has sometimes informed payors of NTSP's requirements for NTSP-payor agreements. NTSP denies the remainder of the factual allegations contained in Paragraph 18.
19. NTSP admits the factual allegations contained in the first sentence of Paragraph 19. NTSP denies the factual allegations contained in the remainder of Paragraph 19.


20. NTSP denies the factual allegations contained in the first sentence of Paragraph 20. NTSP admits that it wrote to its participating physicians, but denies the remainder of the factual allegations in the second sentence of Paragraph 20. NTSP admits the factual allegations contained in the third sentence of Paragraph 20. NTSP denies the remainder of the factual allegations contained in Paragraph 20.
21. NTSP denies the factual allegations contained in Paragraph 21.
22. NTSP denies the factual allegations contained in Paragraph 22.
23. NTSP denies the factual allegations contained in Paragraph 23.
24. NTSP denies the factual allegations contained in Paragraph 24.

DEFENSES

NTSP states the following grounds of defense without assuming the burden of proof on any such defense that would otherwise fall upon Complainant.

1. NTSP is a memberless non-profit corporation and, therefore, is not subject to Section 5 of the Federal Trade Commission Act pursuant to 15 U.S.C. §§ 44-45.
2. NTSP's conduct does not constitute commerce as defined in the Federal Trade Commission Act.
3. NTSP has the right as an entity under *United States v. Colgate & Co.*, 250 U.S. 300, 307 (1919) to refuse to become a party to another's contract or transaction.
4. NTSP's conduct has been fair, reasonable and justified.

Respectfully submitted,



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ATTORNEYS FOR NORTH TEXAS
SPECIALTY PHYSICIANS

CERTIFICATE OF SERVICE

I, Gregory S. C. Huffman, hereby certify that on October 6, 2003, I caused a copy of Respondent North Texas Specialty Physicians' Answer to Complaint of Federal Trade Commission to be served upon the following person by First Class mail, email and/or and by Federal Express:

Michael Bloom
Senior Counsel
Federal Trade Commission
Northeast Region
One Bowling Green, Suite 318
New York, NY 10004

Hon. D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
Room H-104
600 Pennsylvania Avenue NW
Washington, D.C. 20580

Office of the Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue NW
Washington, D.C. 20580

and by e-mail upon the following: Susan Raitt (sraitt@ftc.gov), and Jonathan Platt (jplatt@ftc.gov).



Gregory S. C. Huffman