

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Deborah Platt Majoras, Chairman
Orson Swindle
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz

In the Matter of)	
)	Docket No. 9312
North Texas Specialty Physicians,)	
a corporation.)	
)	

MOTION OF
THE VOLUNTARY TRADE COUNCIL
FOR LEAVE TO FILE AMICUS CURIAE BRIEF
IN SUPPORT OF NEITHER PARTY

[PUBLIC RECORD]

S.M. "Skip" Oliva
President

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Dated: February 18, 2005

Citizens for Voluntary Trade, d/b/a The Voluntary Trade Council, respectfully moves, under 16 C.F.R. § 3.52(j), for leave to file the accompanying *amicus curiae* brief in support of both neither party.

The Voluntary Trade Council is a nonprofit research and education organization that develops practical solutions to the problems caused by violent state intervention in free markets. The VTC focuses on the harm caused to individuals and businesses by the enforcement of antitrust and other “competition” laws. Through publications, filings with government agencies, and the Internet, the VTC applies the principles of free market economics and rational ethics to contemporary antitrust policies and cases.

The VTC has a longstanding interest in the Federal Trade Commission’s formulation and enforcement of antitrust policy in the health care industry. The VTC and its officers have filed comments in nearly two dozen cases brought by the FTC against physician and hospital groups since 2001.

The accompanying brief presents objections to the constitutional legitimacy of the Commission and the economic principles of Complaint Counsel’s case. VTC does not ask the Commission to affirm or reverse Judge Chappell’s Initial Decision. Instead, this brief constitutes a statement of objections on behalf of United States citizens that refuse to acknowledge the Commission’s authority to act in their name and that of the “public interest.”

An *amicus curiae* brief supporting neither side is not expressly contemplated by the Commission’s rules. Such briefs, however, have been admitted for by the Rules of the U.S. Supreme Court and the and by all federal appellate courts under Rule 29 of the

Federal Rules of Appellate Procedure. Furthermore, Rule 29 permits *amicus curiae* briefs to be filed subsequent to the filing of the appellant's principal brief. The rationale for permitting subsequent filing is to ensure that repetitive or superfluous material is not submitted.

In a previous administrative appeal, the Commission permitted a nonprofit organization to file an *amicus curiae* brief supporting neither party (In the Matter of Rambus, Inc., Docket 9302). As was the case then, no injustice will result from granting leave to file the accompanying brief at this time. Complaint Counsel's Appeal Brief is due on March 15, 2005, providing sufficient time to respond, if they choose, to any arguments raised by the accompanying brief.

WHEREFORE, the Voluntary Trade Council requests an Order for leave to file the accompanying *amicus curiae* brief in support of neither party and to consider said brief to be timely filed.

Submitted for Your Consideration,

S.M. "Skip" Oliva
President

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