

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

[PUBLIC]

IN THE MATTER OF

NORTH TEXAS SPECIALTY PHYSICIANS,
A CORPORATION.

Docket No. 9312



**NORTH TEXAS SPECIALTY PHYSICIANS' FIRST REQUEST FOR ADMISSIONS
TO COMPLAINT COUNSEL**

Pursuant to 16 C.F.R. § 3.32, Respondent North Texas Specialty Physicians ("NTSP") requests that Complaint Counsel respond to the following admissions within 20 days of the service of these requests. Objections shall be due within ten days of service.

I.

DEFINITIONS AND INSTRUCTIONS

NTSP requests and instructs that Complaint Counsel respond to the admissions in accordance with the following definitions and instructions:

- A. "Complaint Counsel," "you," or "your" refers to the Federal Trade Commission, Complaint Counsel, their employees, agents, and representatives.
- B. "NTSP" refers to Respondent North Texas Specialty Physicians.
- C. Complaint Counsel is instructed to provide a sworn written answer or objection to each of the admissions below. If an objection is made, the reasons therefore shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why Complaint Counsel cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that Complaint Counsel qualify its answer or deny only a part of the matter on which an admission is requested, Complaint Counsel shall specify so much of it as is true and qualify or deny the remainder.

D. Complaint Counsel may not give lack of information or knowledge as a reason for failure to admit or deny unless Complaint Counsel states that it has made reasonable inquiry and that the information known to or readily obtainable by Complaint Counsel is insufficient to enable it to admit or deny.

E. If Complaint Counsel considers that a matter of which an admission has been requested presents a genuine issue for trial, Complaint Counsel may not, on that ground alone, object to the request; Complaint Counsel may deny the matter or set forth reasons why Complaint Counsel cannot admit or deny it.

F. Any matters not responded to within 20 days of this request will be deemed admitted.

II.

ADMISSIONS

1. Admit that contracts under which NTSP's physicians share risk are not the subject of this adjudicative proceeding.
2. Admit that you claim this adjudicative proceeding is about horizontal price fixing.
3. Admit that you claim the conduct of NTSP is per se unlawful.
4. Admit that you claim the conduct of NTSP should not be analyzed under a rule of reason theory of liability.
5. Admit that competing physicians can properly take concerted actions like those complained about in this adjudicative proceeding if those actions do not have the effect of fixing or facilitating the fixing of prices.
6. Admit that NTSP is not an essential facility.
7. Admit that no conspiratorial meetings occurred between NTSP and its physicians.

Respectfully submitted,



Gregory S. C. Huffman
William M. Katz, Jr.
Gregory D. Binns

THOMPSON & KNIGHT LLP
1700 Pacific Avenue, Suite 3300
Dallas TX 75201-4693
214.969.1700
214.969.1751 - Fax
gregory.huffman@tklaw.com
william.katz@tklaw.com
gregory.binns@tklaw.com

**ATTORNEYS FOR NORTH TEXAS
SPECIALTY PHYSICIANS**

CERTIFICATE OF SERVICE


I, Gregory D. Binns, hereby certify that on November 20, 2003, I caused a copy of the foregoing, to be served upon the following persons:

Michael Bloom (via e-mail and Federal Express)
Senior Counsel
Federal Trade Commission
Northeast Region
One Bowling Green, Suite 318
New York, NY 10004

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

Office of the Secretary (via e-mail and Federal Express)
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 D. Binns