

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

In the Matter of)	
)	
NEW MILLENNIUM ORTHOPAEDICS, LLC,)	File No. 031 0087
a limited liability company,)	
)	
ORTHOPAEDIC CONSULTANTS OF)	
CINCINNATI, INC., dba)	
WELLINGTON ORTHOPAEDICS & SPORTS)	
MEDICINE,)	
a professional corporation, and)	
)	
BEACON ORTHOPAEDICS & SPORTS)	
MEDICINE, LTD.,)	
a limited liability company.)	

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of New Millennium Orthopaedics, LLC (“NMO”), Orthopaedic Consultants of Cincinnati, Inc., dba Wellington Orthopaedics & Sports Medicine (“Wellington”), and Beacon Orthopaedics & Sports Medicine, Ltd. (“Beacon”), hereinafter sometimes referred to as “Proposed Respondents,” and it now appearing that Proposed Respondents are willing to enter into an Agreement Containing Consent Order to Cease and Desist (“Consent Agreement”) from certain acts and practices, and providing for other relief,

IT IS HEREBY AGREED by and between Proposed Respondents and their attorneys, and counsel for the Commission that:

1. Proposed Respondent NMO is a for-profit limited liability company, organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business located at 4530 Eastgate Blvd., Cincinnati, Ohio, 45245.
2. Proposed Respondent Wellington is a for-profit professional corporation, organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business located at 4710 Creek Rd., Suite 110, Cincinnati, Ohio, 45242.
3. Proposed Respondent Beacon is a for-profit limited liability company, organized,

existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business located at 6350 Glenway Ave., Suite 415, Cincinnati, Ohio, 45211.

4. Proposed Respondents admit all the jurisdictional facts set forth in the draft of Complaint here attached.
5. Proposed Respondents waive:
 - a. any further procedural steps;
 - b. the requirement that the Commission's Decision and Order, attached hereto and made a part hereof, contain a statement of findings of fact and conclusions of law;
 - c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order entered pursuant to this Consent Agreement; and
 - d. any claim under the Equal Access to Justice Act.
6. This Consent Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Consent 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 thirty (30) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Consent Agreement and so notify the Proposed Respondents, 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 and Order, in disposition of the proceeding.
7. This Consent Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of Complaint here attached, or that the facts as alleged in the draft Complaint, other than jurisdictional facts, are true.
8. This Consent 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 Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission may, without further notice to Proposed Respondents, (1) issue its Complaint corresponding in form and substance with the draft of Complaint here attached and the Decision and Order in disposition of the proceeding; and (2) make information public with respect thereto. When so entered, the Decision and 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 Decision and Order shall become final upon service. Delivery of the Complaint and the Decision and Order to Proposed Respondents by any

means specified in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. The Complaint may be used in construing the terms of the Decision and Order, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order.

- 9. Proposed Respondents have read the draft of the Complaint and the Decision and Order contemplated hereby. By signing this Consent Agreement, Proposed Respondents represent that the full relief contemplated by this Consent Agreement can be accomplished. Proposed Respondents understand that once the Decision and Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Decision and Order. Proposed Respondents agree to comply with Paragraph II of the draft Decision and Order from the date they sign this Consent Agreement. Proposed Respondent Wellington and Proposed Respondent Beacon represent that, if a payor exercises its right to terminate its preexisting contract pursuant to Paragraph V.B of the Decision and Order, that Proposed Respondent Wellington or Proposed Respondent Beacon has the authority to terminate that contract without obtaining the consent of any person, including, but not limited, to any member of Proposed Respondents. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order after the Decision and Order becomes final.

NEW MILLENNIUM ORTHOPAEDICS, LLC.,
a limited liability company.

By: _____
Martin McTighe, M.D., Manager
New Millennium Orthopaedics, LLC.

Signed this ____ day of _____, 2004

Denver Stanfield, M.D., Manager
New Millennium Orthopaedics, LLC.

Signed this ____ day of _____, 2004

ORTHOPAEDIC CONSULTANTS OF CINCINNATI, INC., dba WELLINGTON ORTHOPAEDICS &

SPORTS MEDICINE,
a professional corporation.

By: _____
Sandra A. Eisele, M.D., President
Orthopaedic Consultants of Cincinnati, Inc., dba
Wellington Orthopaedics & Sports Medicine.

Signed this ____ day of _____, 2004

Michael E. DeFrank, Esq.
Hemmer Spoor Pangburn DeFrank, PLLC
Counsel for New Millennium Orthopaedics, LLC
and Orthopaedic Consultants of Cincinnati, Inc.,
dba Wellington Orthopaedics & Sports Medicine.

Signed this ____ day of _____, 2004

**BEACON ORTHOPAEDICS & SPORTS MEDICINE,
LTD.,**
a limited liability company.

By: _____
Robert R. Burger, M.D., President
Beacon Orthopaedics & Sports Medicine, Ltd.

Signed this ____ day of _____, 2004

William M. Freedman, Esq.
Dinsmore & Shohl, LLP
Counsel for New Millennium Orthopaedics, LLC
and Beacon Orthopaedics & Sports Medicine, Ltd.

Signed this ____ day of _____, 2004

FEDERAL TRADE COMMISSION

By: _____
Gwen Fanger
Sylvia Kundig
Attorneys

APPROVED:

Jeffrey A. Klurfeld
Director
Western Region
Federal Trade Commission

Jeffrey Brennan
Associate Director for the Regions
Federal Trade Commission

Susan A. Creighton
Director
Bureau of Competition
Federal Trade Commission