

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

In the Matter of	)	
	)	
	)	Docket No. 9315
<b>Evanston Northwestern Healthcare Corporation,</b>	)	<b>(Public Record Version)</b>
a corporation, and	)	
	)	
<b>ENH Medical Group, Inc.,</b>	)	
a corporation.	)	

**RESPONDENTS' ANSWERS AND OBJECTIONS TO  
COMPLAINT COUNSEL'S NINTH REQUEST FOR ADMISSIONS  
CONCERNING AUTHENTICITY AND ADMISSIBILITY**

Pursuant to the Federal Trade Commission's Rules of Practice ("Rules"), 16 C.F.R. § 3.32, Respondents hereby file their answers and objections to Complaint Counsel's Ninth Request for Admissions to Respondents Evanston Northwestern Healthcare Corporation ("ENH") and ENH Medical Group, Inc. ("ENH Medical Group").

**General Objections**

The following general objections ("General Objections") apply to all of Complaint Counsel's Ninth Requests for Admissions ("Requests") and are incorporated by reference into each answer made herein. The assertion of the same, similar, or additional objections or the provision of partial answers in the individual responses to these Requests does not waive any of Respondents' General Objections as set forth below:

1. Respondents object to the Requests on the grounds that they have already provided Complaint Counsel with detailed reports of what they currently believe to be the "complete set" of each payor's authentic contracts with Highland Park Hospital ("HPH") and/or ENH. These detailed reports were provided to Complaint Counsel with the understanding that

the reports may need to be modified and/or supplemented because discovery is ongoing, several third parties have yet to respond fully, or at all, to outstanding subpoenas and witnesses with potentially pertinent testimony to the Requests have yet to be deposed.

2. Respondents object to the Requests to the extent that they require responses greater than, beyond the requirements of, and/or at variance to the Rules. In particular, Complaint Counsel already has exceeded its limit of 50 requests for admissions. Although there is no limit on the number of requests for admission as to the authentication of documents, more than 50 of Complaint Counsel's prior Requests do not fall into this category. Complaint Counsel nonetheless repeatedly asks Respondents in these Requests to admit that certain documents constitute a "complete set" of contracts with particular third party payors, thus requesting Respondents to admit that the contracts at issue were not amended or superceded. These Requests for substantive admissions beyond the applicable limit are not authorized by the Rules or the scheduling orders entered in this case. Respondents' answers below are thus limited to addressing whether the documents at issue are authentic. No answer below shall be deemed to have waived this general objection.

3. Respondents object to the Requests to the extent that they seek information that is protected from disclosure by the attorney-client privilege, the work product doctrine or any other recognized privilege.

4. Respondents object to the Requests to the extent that they seek information that may be less onerously obtained through other discovery devices.

5. Respondents object to the Requests to the extent that they are vague and ambiguous in that they fail to adequately define the terms used in the Requests.

6. Respondents object to the Requests to the extent that they seek legal conclusions. For example, Respondents object to the Requests to the extent that they seek admissions that particular documents actually are admissible into evidence because such determinations must be made by the Court, not the parties. Complaint Counsel is really asking Respondents to admit that they will not object to the admissibility of particular documents. Such a request is not authorized under Rule 3.32 and, in any event, is premature given that the parties are in the midst of discovery and pertinent documents have not yet been produced by third parties. Accordingly, all Requests should be deemed denied to the extent that they seek an admission that a particular document is admissible into evidence. Notwithstanding this general objection and denial, Respondents ultimately may agree before trial not to object to the admissibility of certain documents generated by Respondents that came from their own files, as well as certain other documents, as part of the proposed stipulations required under the Scheduling Order entered in this litigation.

7. Respondents object to the Requests to the extent that they seek admissions as to the authenticity of documents because discovery is ongoing and documents not yet reviewed as well as witnesses not yet interviewed or deposed may provide a basis to challenge the authenticity of one or more referenced documents. Accordingly, the information presently known to or readily obtainable by Respondents is insufficient to enable Respondents to admit or deny the authenticity of documents. Respondents thus reserve the right to challenge the authenticity of any document referenced in these Requests based on facts learned during discovery. Respondents, however, acknowledge that, under Rule 3.43(b)(2), documents produced by them from their own files that are addressed, or are identical to documents addressed, in the Requests are presumptively authentic and kept in the regular course of business.

Notwithstanding this general objection, Respondents ultimately may agree to the authenticity of some or all of the referenced documents as part of the proposed stipulations required under the Scheduling Order entered in this litigation.

8. Respondents state that the documents referenced in each Request are subject to the Protective Order entered in this litigation.

**Answers and Specific Objections to Requests for Admissions**

**REDACTED**

**Highland Park Hospital**

1748. The document attached to this Request for Admissions as Exhibit CX-05211 is authentic, genuine, and a true and correct copy of a contract (plus related papers) between **REDACTED** and Highland Park, effective **REDACTED**. The contract is a business record of one or both contracting parties. The contract is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1749. The document attached to this Request for Admissions as Exhibit CX-05212 is authentic, genuine, and a true and correct copy of an amendment (plus a cover letter), effective **REDACTED**, to CX-05211. The amendment is a business record of one or both parties to the amendment. The amendment is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1750. The document attached to this Request for Admissions as Exhibit CX-05213 is authentic, genuine, and a true and correct copy of any amendment (plus a cover sheet), effective

**REDACTED**, to CX-05211. The amendment is a business record of one or both parties to the amendment. The amendment is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1751. Exhibits CX-05211 through CX-05213 constitute an authentic, genuine, true and correct copy of the complete set of the **REDACTED** contracts and amendments (plus a cover letter, a cover sheet and other related papers) between **REDACTED** and Highland Park from **REDACTED**. This set of exhibits is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1752. The document attached to this Request for Admissions as Exhibit CX-05214 is authentic, genuine, and a true and correct copy of a consent to assignment (plus a cover letter and related documents), effective **REDACTED**. The consent to assignment is a business record of one or both parties to the consent to assignment. The consent to assignment is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1753. Exhibit CX-05214 constitutes an authentic, genuine, true and correct copy of the complete set of the **REDACTED** consents to assignment (plus a cover letter and related documents) between **REDACTED** and Highland Park from **REDACTED**. This set of an exhibit is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

**Evanston Northwestern Healthcare**

1754. The document attached to this Request for Admissions as Exhibit CX-05215 is authentic, genuine, and a true and correct copy of a contract (plus a cover letter) between **REDACTED** and Evanston Northwestern Healthcare, effective **REDACTED**. The contract is a business record of one or both contracting parties. The contract is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1755. Exhibit CX-05215 constitutes an authentic, genuine, true and correct copy of the complete set of the **REDACTED** contracts and amendments (plus a cover letter) between **REDACTED** and Evanston Northwestern Healthcare from **REDACTED**. This set of an exhibit is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1756. The document attached to this Request for Admissions as Exhibit CX-05216 is authentic, genuine, and a true and correct copy of a contract between **REDACTED** and Evanston Northwestern Healthcare, executed **REDACTED**. The **REDACTED** is a business record of one or both contracting parties. The contract is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1757. The document attached to this Request for Admissions as Exhibit CX-05217 is authentic, genuine, and a true and correct copy of an amendment (plus a cover letter), effective

**REDACTED**, to CX-05215. The amendment is a business record of one or both parties to the amendment. The amendment is admissible into evidence in this matter.

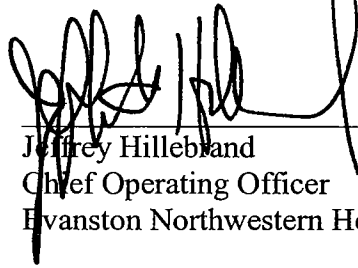
**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

1758. Exhibits CX-05216 through CX-05217 constitute an authentic, genuine, true and correct copy of the complete set of the **REDACTED** contracts and amendments (plus a cover letter) between **REDACTED** and Evanston Northwestern Healthcare issued from **REDACTED**. This set of exhibits is admissible into evidence in this matter.

**ANSWER:** Subject to and notwithstanding the general objections, Respondent's refer Complaint Counsel to the contract index attached hereto as Exhibit A.

**VERIFICATION**

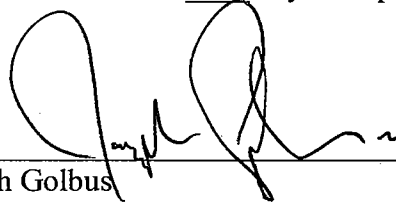
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and recollection. Executed on this 3<sup>rd</sup> day of September, 2004.



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Jeffrey Hillebrand  
Chief Operating Officer  
Evanston Northwestern Healthcare Corporation

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and recollection. Executed on this 3<sup>rd</sup> day of September, 2004.

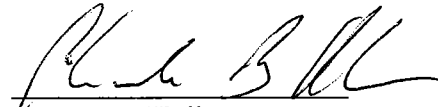


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Dr. Joseph Golbus  
President  
ENH Medical Group, Inc.



Respectfully Submitted,



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*Attorneys for Respondents*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 7, 2004, a copy of the foregoing Respondents' Answers and Objections to Complaint Counsel's Ninth Request for Admissions Concerning Authenticity and Admissibility was served (unless otherwise indicated) by email and first class mail, postage prepaid, on:

The Honorable Stephen J. McGuire  
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Charles B. Klein

**REDACTED**

