



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

May 15, 2006

Joel Grosberg, Esquire  
McDermott Will & Emery  
600 Thirteenth St., N.W.  
Washington, D.C. 20005-3096

Re: *In the Matter of DaVita, Inc., Docket No. C-4152*

Dear Mr. Grosberg:

This letter responds to the February 1, 2006, Divestiture Petition ("Petition") of DaVita Inc. ("DaVita") requesting that the Commission approve DaVita's sale of the Owned Real Property to Brent Armstrong & Associates, Inc. d/b/a the Armstrong Group ("Armstrong Group") and Mr. Bond E. Oman ("Bond Oman") pursuant to the order in this matter ("Order"). The Petition was placed on the public record for comments for thirty days, until March 4, 2006, and no comments were received.

After consideration of the proposed transactions as set forth in the Petition and supplemental documents, as well as other available information, the Commission has determined to approve the divestiture of the Owned Real Property to the Armstrong Group and Bond Oman. In according its approval, the Commission has relied upon the information submitted and representations made in connection with DaVita's Petition, and has assumed them to be accurate and complete.

This letter also responds to "Respondent's Motion For Extension Of Time" ("Motion"), dated February 1, 2006, filed by DaVita in this matter. Pursuant to the terms of the Order, DaVita was required to divest the Owned Real Property, absolutely and in good faith, no later than 120 days after the date the Agreement Containing Consent Order ("Consent Agreement") was accepted for public comment, *i.e.*, by February 4, 2006. In its Motion, DaVita requests that the Commission extend the time for divestiture by 60 days (*i.e.*, until April 4, 2006), pursuant to Section 4.3(b) of the Commission's Rules of Practice, 16 C.F.R. § 4.3(b). Rule 4.3(b) provides that "the Commission, for good cause shown, may extend any time limit prescribed by the rules in this chapter or order of the Commission." Under applicable precedent, DaVita has the burden of demonstrating good cause, and granting an extension of time rests in the discretion of the Commission. *United States v. Swingline, Inc.*, 371 F. Supp. 37, 45 (E.D.N.Y. 1974).

The Commission has reviewed DaVita's Motion, its compliance reports and other information and, after careful consideration, has determined to grant the Motion and extend the time for divestiture until May 30, 2006. DaVita has demonstrated that it began its divestiture efforts before the Commission accepted the Consent Agreement and acted diligently throughout the entire divestiture period. Moreover, DaVita has shown that the delays in completing negotiations were caused by physical problems with certain of the properties, and possible clouds on title, which were not reasonably discovered before the buyers conducted their due diligence. DaVita's showing is sufficient to justify the relief requested.

By direction of the Commission.

Donald S. Clark  
Secretary