

2. Prior to the transactions at issue, SNCA and RHP, the two largest groups of physicians providing adult cardiology services in the Reno/Sparks, Nevada Metropolitan Statistical Area (“Reno area”), competed head-to-head to serve cardiology patients.

3. As a result of Renown Health’s acquisition of SNCA in 2010 and the employment of the SNCA-affiliated cardiologists, Renown Health employed approximately 47% of the cardiologists serving private patients in the Reno area. As a result of Renown Health’s subsequent acquisition of RHP in 2011 and employment of the RHP-affiliated cardiologists, Renown Health then employed approximately 97% of the cardiologists serving private patients in the Reno area. Renown Health’s acquisition of RHP makes it likely that Renown Health will be able to exercise unilateral market power in the Reno area, which will result in higher prices and a reduction in non-price competition for the provision of cardiology services.

4. Although health plans are the direct customers for cardiology services provided to many patients, higher prices for those services are passed on to employers, unions, and other group purchasers of health insurance plans, and such costs are ultimately borne by patients in the Reno area through higher premiums, co-payments, and other out-of-pocket expenditures.

5. The price and non-price competition eliminated by Renown Health’s acquisition of RHP and employment of its cardiologists will not be replaced by other providers. Prior to the acquisition, RHP was the only group of cardiologists that competed meaningfully with Renown Health for Reno-area cardiology patients.

RESPONDENT

6. Respondent Renown Health is a non-profit corporation, organized, existing, and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 1155 Mill Street, Reno, Nevada 89502. In Reno, Renown Health owns and operates Renown Regional Medical Center, with 808 licensed beds, and Renown South Meadows Medical Center, with 76 licensed beds. Renown Health also operates Carson Valley Medical Center in Gardnerville, Nevada, as part of a joint venture with Barton Healthcare Service. In addition, Renown Health owns and operates Hometown Health Plan, a commercial health insurance company that does business in northern Nevada as well as other portions of the state.

7. Respondent Renown Health is, and at all times herein has been engaged in commerce or in activities in or affecting commerce within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12. The acquisitions of SNCA and RHP constitute acquisitions under Section 7 of the Clayton Act, 15 U.S.C. § 18.

THE TRANSACTIONS

8. On or about November 24, 2010, Arger, DiPaolo, Drummer, Fuller, Newmark & Spring, a Nevada professional corporation doing business as SNCA was converted to a Nevada for-profit corporation. SNCA, was then merged into Renown Health. In addition, Renown Health purchased certain of SNCA’s assets, including its interest in a free-standing cardiac

catheterization laboratory and its goodwill, for approximately \$3.4 million. This merger of SNCA into Renown Health (“SNCA merger”) became effective on January 1, 2011.

9. On or about November 24, 2010, 15 physicians associated with SNCA signed employment agreements with Renown Health, providing that each such physician would become employed by Renown Health for a specified numbers of years, for a salary and certain specified benefits. The effective date of the employment agreements between Renown Health and each of the SNCA physicians was January 1, 2011.

10. The employment agreements between the former SNCA doctors and Renown Health contain “covenants,” including a covenant not to compete, a covenant of non-solicitation, and a covenant of non-interference. The covenant not to compete contained in the employment agreements between Renown Health and each of the physicians formerly affiliated with SNCA provides, *inter alia*, that a Renown Health-employed cardiologist who chooses to leave Renown Health’s employ is barred for two years from negotiating or entering into an agreement to provide cardiology services at any hospital, medical practice or medical facility at a location within 50 miles of the physician’s principal place of practice with Renown Health, or from owning, operating, managing, becoming an employee, or in any way becoming connected with any hospital, medical practice or medical facility at a location within 50 miles of the physician’s principal place of practice with Renown Health. The covenant of non-solicitation contained in the employment agreements between Renown Health and each of the physicians formerly affiliated with SNCA provides, *inter alia*, that a Renown Health-employed cardiologist who chooses to leave Renown Health’s employ is barred for a period of two years after leaving from soliciting or contacting former patients. The covenant of non-interference contained in the employment agreements between Renown Health and each of the physicians formerly affiliated with SNCA provides, *inter alia*, that a Renown Health-employed cardiologist who chooses to leave Renown Health’s employ is barred from causing any entity with a contractual relationship with Renown Health from terminating such relationship with Renown Health.

11. On or about March 17, 2011, Berndt, Chaney-Roberts, Davee, Ganchan, Ichino, Juneau, Noble, Seher, Smith, Swackhamer, Thompson, Williamson and Zebrack, Ltd., a professional corporation doing business as Reno Heart Physicians was converted to a Nevada for-profit corporation. This corporation was then merged into Renown Health. In addition, Renown Health purchased certain of RHP’s assets, for approximately \$4 million. This merger of RHP into Renown Health (“RHP merger”) became effective on or about March 29, 2011.

12. On or about March 17, 2011, 17 physicians associated with RHP signed employment agreements with Renown Health, providing that each such physician would become employed by NHI for specified numbers of years, for a salary and certain specified benefits. The effective date of the employment agreements between Renown Health and each of the RHP physicians was March 29, 2011. Of the 17 cardiologists affiliated with RHP who became Renown Health employees, 16 practiced primarily and regularly in the Reno area; one cardiologist practiced regularly in an office located in Carson City, Nevada. The employment agreements between the former RHP doctors and Renown Health also contain “covenants” including a covenant not to compete, a covenant of non-solicitation, and a covenant of non-

interference, which are identical or virtually identical to those contained in the employment agreements between the SNCA doctors and Renown Health.

13. Prior to the SNCA merger, Renown Health did not employ any cardiologists. With the SNCA merger and employment of the former SNCA cardiologists, Renown Health employed 15 cardiologists who competed with RHP in the provision of cardiology services in the Reno area. After the RHP merger, Renown Health, either directly or through its subsidiaries, employed 31 cardiologists in Reno and one cardiologist in Carson City.

14. The effect of the acquisition of RHP by Renown Health was to combine 31 of the 32 cardiologists then practicing in the Reno area under Renown Health, the owner and operator of the largest hospital system in that area.

THE RELEVANT MARKET

15. For the purposes of this Complaint, the relevant line of commerce is the provision of adult cardiology services. “Cardiology services” includes diagnostic or treatment services by cardiologists who provide non-invasive services (general cardiology), invasive services (including diagnostic cardiac catheterization procedures), interventional cardiology (including placement of stents), and electrophysiology services (including the insertion and/or removal of devices related to heart rhythm functions). For purposes of this complaint, cardiology services does not include pediatric cardiology services or cardiac surgery.

16. The relevant geographic market in which to assess the effect of the SNCA and RHP mergers with Renown Health is the Reno area, including Washoe County, Nevada, but not including Carson City, Nevada.

THE STRUCTURE OF THE MARKET

17. The merger of RHP into Renown Health and the employment of the RHP physicians by Renown Health reduced from two to one the number of adult cardiology service providers that offer a broad range of adult cardiology subspecialties in the Reno area. These cardiology subspecialties, including non-invasive, invasive, interventional, and electrophysiology, are required to fully meet the needs of patients with heart conditions. At the time of the RHP transaction, the only other cardiologist serving adult cardiology patients in the Reno area was a sole practitioner, who could not provide a comparable range of services.

18. At the time of the consummation of the transaction at issue here, Renown Health employed 97% of the cardiologists in the relevant market. The Herfindahl-Hirschman Index (“HHI”) in the market for the provision of cardiology services, based on the number of cardiologists serving the market, increased from 4707 to 9395, an increase of 4688 points.

19. Since the time the former RHP doctors became employees of Renown Health, two Renown Health cardiologists have left the Reno area. In addition, three cardiologists who are not affiliated with Renown Health have started practicing cardiology in the Reno area. As a result, Renown Health now employs approximately 88% of the cardiologists in the area. The

current HHI, based on the number of cardiologists serving the market is now 7815, an increase of 3108 points over the HHI prior to the Renown Health's acquisition of RHP.

20. Prior to January 1, 2011, the effective date of the SNCA physicians' employment by Renown Health, SNCA and RHP were actual and substantial competitors in the relevant market. After Renown Health's employment of the SNCA physicians, Renown Health became an actual and substantial competitor of RHP in the provision of cardiology services to patients in the Reno area.

21. Prior to March 29, 2011, the effective date of the RHP physicians' employment by Renown Health, health plans and self-insured employers, seeking to contract with cardiologists for the provision of cardiology services to their members and/or employees, would have been able to choose between RHP and Renown Health based on price and non-price terms offered by the respective groups of cardiologists. Health plans and employers contracting for adult cardiology services benefitted from this head-to-head competition with lower prices and improved quality and service.

22. The availability and number of alternative providers is the primary source of a health plan's bargaining power to negotiate competitive rates on behalf of its members. Thus, an acquisition that reduces a health plan's choice of providers reduces the health plan's bargaining power when negotiating with providers, and can lead to higher prices and reduced quality. Renown Health's acquisition of RHP reduced the number of cardiology practices capable of providing a full range of cardiology services from two to one, creating a significant risk of higher prices and reduced quality.

ENTRY CONDITIONS

23. The most significant barrier to entry into the market for adult cardiology services in the Reno area is the need for new entrants to recruit a sufficient number of cardiologists with appropriate training, experience and areas of specialization. Because cardiologists within a practice must provide coverage for each other, unless an entity can recruit a sufficient number of cardiologists in each necessary subspecialty, any cardiologists recruited to the market will not have a sufficient number of other cardiologists with whom they can share responsibilities.

24. New entry into the relevant geographic market sufficient to deter or counteract the anticompetitive effects described in Paragraphs 25 and 26 is unlikely to occur in a timely manner because recruitment of a sufficient number of cardiologists to provide a competitive constraint to Renown Health would take more than two years.

EFFECTS OF THE TRANSACTION

25. The effects of Renown Health's acquisition of RHP and employment of the RHP physicians may be substantially to lessen competition and tend to create a monopoly in the relevant markets in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, in the following ways, among others:

- a. eliminating actual, direct and substantial competition between Renown Health and RHP in the market for the provision of cardiology services;
- b. increasing the ability of the merged entity unilaterally to raise prices for cardiology services; and
- c. reducing incentives to improve service or product quality in the relevant markets

26. After the consummation of the transaction with its combination of the two largest cardiology physician groups in the Reno area, health plans can no longer threaten, implicitly or explicitly, to exclude Renown Health or the cardiologists employed by Renown Health. This substantially reduces the health plans' bargaining power, and substantially increases Renown Health's bargaining power, when negotiating rates for adult cardiology services in the Reno area.

VIOLATIONS CHARGED

27. The transaction described in Paragraph 11, and Renown Health's subsequent employment of RHP doctors, described in Paragraph 12, constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this third day of August, 2012, issues its Complaint against said Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: