

ORIGINAL



May 24, 2013

Cathy M. Ellington
404-504-5424
cme@mmmlaw.com
www.mmmlaw.com

VIA FEDERAL EXPRESS

Phone: 202-326-2021
Donald S. Clark,
Secretary of the Commission
Federal Trade Commission
Room H-172
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Judge D. Michael Chappell
Federal Trade Commission
600 Pennsylvania Avenue, NW
Room H-110
Washington, D.C. 10580

**In Re: Phoebe Putney Health System, Inc. et al., Docket No. 9348
Submission of Notices of Response to Subpoenas**

Dear Honorable Judge Chappell and Secretary Clark:

Please find enclosed service copies of our client's Notice of Response to Phoebe Putney Health System Inc.'s April 26, 2013 Subpoena for the following entities in the above-referenced matter:

- (1) Evans Memorial Hospital;
- (2) Hutcheson Medical Center
- (3) Irwin County Hospital
- (4) Murray Medical Center.

If you need any additional information or have any questions, please contact me and I will forward any requested information immediately.

Sincerely,

MORRIS, MANNING & MARTIN, LLP


Cathy M. Ellington
Paralegal for Robert C. Threlkeld
Enclosure

MORRIS, MANNING & MARTIN, LLP

May 24, 2013

Donald S. Clark, Secretary of the Commission
And Judge D. Michael Chappell

Page 2

cc: Robert C. Threlkeld, Esq. (w/o encl.)
Michele P. Madison, Esq. (w/o encl.)
Dana S. Durrett, Esq. (w/o encl.)
Ryan C. Burke, Esq. (w/o encl.)
Counsel of Record in Adjudicative Proceeding **(w/enclosures)**

ORIGINAL

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**



In the Matter of:)
)
PHOEBE PUTNEY HEALTH SYSTEM, INC.,)
)
PHOEBE PUTNEY MEMORIAL HOSPITAL, INC.,)
)
PHOEBE NORTH, INC.,)
)
HCA INC.,)
)
PALMYRA PARK HOSPITAL, INC., and)
)
HOSPITAL AUTHORITY OF ALBANY-)
DOUGHERTY COUNTY.)
_____)

Docket No. 9348

**EVANS MEMORIAL HOSPITAL'S NOTICE OF RESPONSE TO
PHOEBE PUTNEY HEALTH SYSTEM, INC.'S APRIL 26, 2013 SUBPOENA**

COMES NOW, Evans Memorial Hospital ("Evans") and respectfully files this Notice of Response to Phoebe Putney Health System, Inc.'s ("Phoebe") April 26, 2013 Subpoena. Evans respectfully states as follows:

Phoebe issued a Subpoena dated April 26, 2013 (the "Subpoena") to Evans, a third-party to this adjudicative proceeding. The Subpoena sought the production of documents through four enumerated requests:

1. All documents relating to the Transaction, including but not limited to, all documents sent to or received from the FTC, and all documents relating to communications with the FTC.
2. All documents relating to Phoebe or Palmyra.
3. Since 2006, all audited or other financial statements or materials for Your Hospital prepared for either internal use or presented to third parties, (e.g., the Georgia Department of Community Health, the Georgia Hospital Association, potential investors or lenders, investment banks).

PUBLIC DOCUMENT

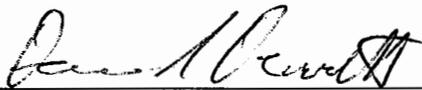
4. All Joint Commission on Accreditation of Healthcare Organizations (“JCAHO”) or other periodic reviews performed by any organization that assigned a “quality rating” or “quality-score” to Your Hospital. *Subpoena Requests Nos. 1 – 4.*

Following extensive negotiations with Phoebe, Phoebe agreed on May 10, 2013 to limit the Subpoena as set forth in Exhibit A. Phoebe withdrew Requests Nos. 1, 2, and 4, and limited Request No. 3. Request No. 3 now seeks only “one copy” of existing year-end financial statements for the years 2010, 2011, and 2012 for Evans. These financial statements are to be audited hospital-level financial statements, if those exist, otherwise an entity may produce unaudited hospital-level financial statements.

Evans hereby gives notice that it is producing its 2010, 2011, and 2012 audited financial statements responsive to this amended Request No. 3. Evans notes that it is producing these documents pursuant to the protections of the April 21, 2011 Protective Order Governing Discovery Material issued by the Federal Trade Commission Office of Administrative Law Judges, and understands that these documents will be so treated as confidential.

This 24th day of May, 2013.

MORRIS, MANNING & MARTIN, LLP

By: 

Robert C. Threlkeld
Georgia Bar No. 710760
D.C. Bar No. 416563
Dana S. Durrett
Georgia Bar No. 141742

1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, Georgia 30326
Telephone: (404) 233-7000
Fax: (404) 365-9532

PUBLIC DOCUMENT

10/10/10

Exhibit "A"

DOCUMENTS TO BE PRODUCED

1. ~~All documents relating to the Transaction, including but not limited to, all documents sent to or received from the FTC, and all documents relating to communications with the FTC.~~
2. ~~All documents relating to Phoebe or Palmyra.~~
3. Since 2006, all audited or other financial statements or materials for Your Hospital prepared for either internal use or presented to third parties, (e.g., the Georgia Department of Community Health, the Georgia Hospital Association, potential investors or lenders, investment banks).

As offered previously and clarified during our call yesterday, 5/7/13, this request is now limited to financial statements prepared since January 1, 2010 and is further limited to audited hospital-level data, to the extent that it exists. If hospital-level audited data is unavailable, year-end summary hospital-level financial statements, even if unaudited are preferable to audited consolidated financial statements such as those sometimes created for health systems. In addition, the request no longer seeks "all" such documents; we request only one-copy of each.

4. ~~All Joint Commission on Accreditation of Healthcare Organizations ("JCAHO") or other periodic reviews performed by any organization that assigned a "quality rating" or "quality score" to Your Hospital.~~

After discussions with GHA and after consulting with our expert, we will no longer be seeking to enforce Requests 12 of the long-form subpoena, and Request 4 of the short-form subpoena ("All Joint Commission on Accreditation of Healthcare Organizations . .").

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of:)

PHOEBE PUTNEY HEALTH SYSTEM, INC.,)

PHOEBE PUTNEY MEMORIAL HOSPITAL, INC.,)

PHOEBE NORTH, INC.,)

HCA INC.,)

PALMYRA PARK HOSPITAL, INC., and)

HOSPITAL AUTHORITY OF ALBANY-)
DOUGHERTY COUNTY.)

Docket No. 9348

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the foregoing matter with a true and correct copy of the within and foregoing **“Notice of Response to Phoebe Putney Health System, Inc.’s April 26, 2013 Subpoena”** via electronic mail and United States Mail with sufficient postage affixed thereto, addressed to:

Amanda Lewis
Federal Trade Commission
600 Pennsylvania Ave
Washington, DC 20580
Email: alewis1@ftc.gov

Christopher Abbott
Federal Trade Commission
600 Pennsylvania Ave
Washington, DC 20580
Email: cabbott@ftc.gov

Douglas E. Litvack
Federal Trade Commission
600 Pennsylvania Ave
Washington, DC 20580
Email: dlitvack@ftc.gov

Edward D. Hassi
Federal Trade Commission
600 Pennsylvania Ave NW
Washington, DC 20580
Email: ehassi@ftc.gov

Jeffrey H. Perry
Federal Trade Commission
600 Pennsylvania Ave
Washington, DC 20580
Email: jperry@ftc.gov

Lucas Ballet
Federal Trade Commission
600 Pennsylvania Ave
Washington, DC 20580
Email: lballet@ftc.gov

PUBLIC DOCUMENT

Maria M. Dimoscato
Federal Trade Commission
601 New Jersey Ave NW
Washington, DC 20580
Email: mdimoscato@ftc.gov

Sara Y. Razi
Federal Trade Commission
600 Pennsylvania Ave NW
Washington, DC
Email: srazi@ftc.gov

Emmet J. Bondurant , II
1201 West Peachtree Street, N.W.
3900 One Atlantic Center
Atlanta, GA 30309
Email: bondurant@bmelaw.com

Kevin James Arquit, Esq.
Simpson, Thacher & Bartlett, LLP
425 Lexington Avenue
New York, New York 10017-3954
karquit@stblaw.com

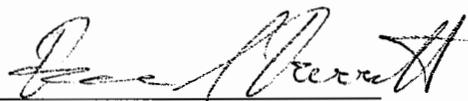
Lee K. Van Voorhis;
Katherine I. Funk; Brian F. Burke;
Jennifer A. Semko;
John J. Fedele; Teisha C. Johnson
Brian Rafkin; Jeremy W. Cline
Baker & McKenzie, LLP
815 Connecticut Avenue, NW

Judge D. Michael Chappell
Federal Trade Commission
600 Pennsylvania Avenue, NW
Room H-110
Washington, D.C. 20580

Lee K. Van Voorhis;
Katherine I. Funk; Brian F. Burke;
Jennifer A. Semko;
John J. Fedele; Teisha C. Johnson
Brian Rafkin; Jeremy W. Cline
Baker & McKenzie, LLP
815 Connecticut Avenue, NW

Donald S. Clark – Secretary of the
Commission
Federal Trade Commission
600 Pennsylvania Avenue, NW
Room H-113
Washington, D.C. 20580

This 24th day of May, 2013.



Dana S. Durrett