

UNITED STATES DISTRICT COURT  
IN THE DISTRICT OF IDAHO

SAINT ALPHONSUS MEDICAL CENTER-  
NAMPA, INC., TREASURE VALLEY  
HOSPITAL LIMITED PARTNERSHIP,  
SAINT ALPHONSUS HEALTH SYSTEM,  
INC., AND SAINT ALPHONSUS  
REGIONAL MEDICAL CENTER, INC.

Plaintiffs,

v.

ST. LUKE'S HEALTH SYSTEM, LTD., and  
ST. LUKE'S REGIONAL MEDICAL CENTER  
LTD.,

Defendants.

Case No. 1:12-cv-00560-BLW (Lead Case)

**GOVERNMENT PLAINTIFFS'  
UNOPPOSED MOTION TO EXTEND  
TIME FOR DIVESTITURE OF THE  
SALTZER ASSETS AND BUSINESS**

---

FEDERAL TRADE COMMISSION; STATE OF  
IDAHO

Plaintiffs,

v.

ST. LUKE'S HEALTH SYSTEM, LTD.;  
SALTZER MEDICAL GROUP, P.A.

Defendants.

---

Case No. 1:13-cv-00116-BLW

Government Plaintiffs<sup>1</sup> by and through their counsel make this unopposed motion to this Court to enter an "Order to Extend Time for Divestiture of the Saltzer Assets and Business", and in support thereof state as follows:

**INTRODUCTION**

1. On December 10, 2015, this Court entered an "Order to Maintain Assets and

---

<sup>1</sup> The Order at paragraph II.F.1 provides that the Trustee shall have authority to accomplish divestiture, subject to the approval of the Government Plaintiffs and final approval of the Court.

Appointing a Monitor and a Divestiture Trustee” (“Order”) to implement the Court’s February 28, 2014, Judgment enjoining St. Luke’s Hospital’s (“St. Luke’s”) acquisition of Saltzer and requiring St. Luke’s to “divest itself of Saltzer’s physicians and assets and take any further action needed to unwind the Acquisition.”

2. The Order appointed Jim Moloney of Cain Brothers as the Trustee to accomplish the divestiture of the Saltzer Assets and Businesses as a viable, independent medical practice that will restore competition in the market for adult primary care physician services sold to commercially insured patients in Nampa, Idaho. (Order at Para. II.B. and at p.2.) The Trustee has worked with all reasonable diligence and speed to accomplish the divestiture. (Order at Para. II.F.2.) He has analyzed a number of potential buyers and coordinated the search for a divestiture buyer with the Government Plaintiffs, St. Luke’s, and Saltzer.

3. Through this process, the Trustee and Saltzer have narrowed the field down to a single proposed buyer. Currently, the Trustee and corporate counsel representing all parties are working on the divestiture documents. The Trustee expects the transaction to close by the end of March 2017.

4. The Government Plaintiffs make this unopposed motion for an extension of the time until May 1, 2017, for the Trustee to complete the divestiture, as contemplated by the Court’s Order.

#### **TRUSTEE’S EFFORTS TO DIVEST**

5. The Trustee, with the help of the Monitor, KPMG, and Consilium Group, a financial consulting company, gathered and compiled financial and other information about Saltzer to create an offering memorandum for proposed buyers. (*See* Divestiture Trustee Status Reports (“Report”) from January 11, 2016, February 10, 2016, and March 10, 2016.) In

addition, the Trustee collected more detailed information that would be available for due diligence by the proposed buyers. (*See* Report from April 10, 2016.)

6. The Trustee established a multi-phase process for identifying, contacting, and evaluating potential buyers. The Trustee started with a group of almost 70 potential buyers. From that group, about 20 entities executed non-disclosure agreements, and received the confidential information memorandum. By June 2016, the Trustee had received five, non-binding initial proposals. The five organizations were given access to the confidential data room for additional due diligence. After Saltzer management presentations to the five organizations were completed in July 2016, the Trustee and the five potential buyers continued due diligence, including meetings with the Saltzer physicians and management, and visits to the Saltzer facilities and clinics. (*See* Reports from July 10, 2016, and August 10, 2016.)

7. By October 2016, the Trustee had narrowed the list of potential buyers to three. The Saltzer physicians met with each of the three finalists and visited clinics owned or operated by the bidders. The Trustee, Government Plaintiffs, and Saltzer evaluated the final, detailed offers. In early November, the Saltzer physicians and management expressed a preference for the bidder currently under consideration as the proposed divestiture buyer.

#### **CURRENT STATUS AND ADDITIONAL TIME NECESSARY FOR DIVESTITURE**

8. The Trustee, Monitor, Saltzer management, the proposed buyer, among others, and attorneys for all parties met on November 16, 2016, to map out the steps necessary to finalize the divestiture. Transaction counsel for St. Luke's, Saltzer, and the proposed buyer are drafting the various and complex divestiture documents. They expect to have the final documents drafted by early December and signed by the end of December.

9. The proposed buyer's offer appears to be generally acceptable to the

Government Plaintiffs. Government Plaintiffs have requested additional financial information and detailed business plans before deciding whether to approve the proposed buyer's divestiture proposal, as provided in the Order at Paragraph II.F.4, and submitting it to the Court for final approval.

10. Given where the process stands, Government Plaintiffs and the Trustee do not believe that the divestiture will be completed by December 10, 2016, the end of the twelve-month period allowed in the Court's Order.

11. The Order gave the Trustee twelve (12) months to accomplish the divestiture of St. Luke's. The Order allows, however, an extension of that time period under certain circumstances. Paragraph II.F.4. of the Order states:

II.F. The Trustee's powers, duties, authority, and responsibilities shall include the following without limitation . . .

4. The Trustee shall have not more than twelve (12) months (subject to the extension provided below) from the date of this Order to accomplish the divestiture. The Trustee shall consult with the Saltzer Physicians (without interference from St. Luke's and Saltzer), and review and consider their input regarding the specific provisions of any proposed agreement to divest the Saltzer Assets and Business relating to individual Physician's scope of service, work site, compensation, work and call schedule, and the term and termination of professional services, before such agreement is submitted to the Court. Any divestiture shall be made only to an Acquirer acceptable to the Government Plaintiffs in their sole discretion, and subject to the final approval of the Court. *If, however, at the end of the twelve (12) month period, the Trustee has submitted a plan of divestiture or believes that the divestiture can be achieved within a reasonable additional time, the divestiture period may be extended by the Court. . .*" (emphasis added)

Based upon the information gathered to this point, the Trustee has represented to the Government Plaintiffs that he believes that the divestiture will be achieved within a reasonable time, not exceeding May 1, 2017.<sup>2</sup> The Government Plaintiffs are optimistic that they will have

---

<sup>2</sup> The Trustee and Government Plaintiffs believe that the divestiture should be completed by the end of March 2017; however, we are seeking an additional month in case there are unexpected delays, and to avoid having to make another request for an extension.

the information necessary to approve the proposed buyer and the divestiture package before the end of this year, and expect to file a motion for the Court's review and approval of the divestiture in early 2017.

12. The Government Plaintiffs have provided this Motion to the Defendants in this case and have been advised that none opposes the Government Plaintiffs' requested relief.

13. Therefore, the undersigned parties request this Court to enter the Proposed Order submitted contemporaneously with this motion.

DATED this 21<sup>st</sup> day of November, 2016.

By /s/ Henry C. Su  
Henry C. Su, Attorney  
Daniel P. Ducore, Assistant Director  
Eric D. Rohlck, Attorney  
Compliance Division,  
Bureau of Competition  
Federal Trade Commission  
Bureau of Competition  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580  
Tel: 202-326-2526  
[hsu@ftc.gov](mailto:hsu@ftc.gov)

Deborah L. Feinstein, Director  
Bureau of Competition  
Federal Trade Commission

Charles Harwood, Director  
Northwest Region  
Federal Trade Commission

Joel Marcus, Deputy General Counsel for  
Litigation  
David C. Shonka, Acting General Counsel  
Federal Trade Commission

*Counsel for Plaintiff Federal Trade*

By /s/ Brett T. DeLange  
Lawrence G. Wasden, Attorney General  
Brett T. DeLange  
Deputy Attorney General  
Office of the Attorney General  
Consumer Protection Division  
954 West Jefferson Street, Second Floor  
P.O. Box 83720  
Boise, ID 83720-0010  
Tel: 208-334-4114  
[brett.delange@ag.idaho.gov](mailto:brett.delange@ag.idaho.gov)

*Counsel for Plaintiff State of Idaho*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 21st day of November, 2016, I electronically filed *Government Plaintiffs' Unopposed Motion to Extend Time for Divestiture of the Saltzer Assets and Business* with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following:

J. Walter Sinclair  
Brian C. Wonderlich  
*Holland & Hart LLP*  
jwsinclair@hollandhart.com  
bcwonderlich@hollandhart.com

Jack R. Bierig  
Charles K. Schafer  
Tacy F. Flint  
*Sidley Austin, LLP*  
jbierig@sidley.com  
cschafer@sidley.com  
tflint@sidley.com

*Counsel for St. Luke's Health System, Ltd.*

Brian K. Julian  
*Anderson, Julian & Hull, LLP*  
bjulian@ajhlaw.com

*Counsel for Saltzer Medical Group, P.A*

John P. Marren  
Patrick E. Deady  
Thomas J. Babbo  
*Hogan Marren Babbo & Rose, Ltd.*  
jpm@hmltd.com  
ped@hmltd.com  
tjb@hmltd.com

*St. Luke's Regional Medical Center, Ltd.*

Henry C. Su  
hsu@ftc.gov

*Counsel for Plaintiff Federal Trade Commission*

Keely E. Duke  
Kevin J. Scanlan  
*Duke Scanlan Hall PLLC*  
ked@dukescanlan.com  
kjs@dukescanlan.com

David A. Ettinger  
Lara Festco Phillip  
*Honigman Miller Schwartz and Cohn LLP*  
dettinger@honigman.com  
lara.phillip@honigman.com

*Counsel for Saint Alphonsus Medical Center - Nampa, Inc.; Saint Alphonsus Health System, Inc.; and Saint Alphonsus Regional Medical Center, Inc.*

Raymond D. Powers  
Portia L. Rauer  
*Powers Tolman Farley, PLLC*  
rdp@powerstolman.com  
plr@powerstolman.com

*Counsel for Treasure Valley Hospital Limited Partnership*

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By /s/ Brett T. DeLange  
BRETT T. DELANGE  
Deputy Attorney General