

Interlocutory Orders, Etc.

IN THE MATTER OF

RENOWN HEALTH

Docket No. C-4366. Order, August 3, 2012

Order directing Renown Health to suspend enforcement of the non-compete provisions against Renown's cardiologist employees.

ORDER TO SUSPEND ENFORCEMENT OF RENOWN NON-COMPETE

The Federal Trade Commission ("Commission"), having initiated an investigation of the acquisition by Renown Health of Reno Heart Physicians ("RHP"), and Renown Health (hereafter referred to as "Renown Health" or "Respondent Renown") having been furnished thereafter with a copy of a draft Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent Renown with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18; and

Respondent Renown, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders ("Consent Agreement"), containing an admission by Respondent Renown of all the jurisdictional facts set forth in the aforesaid draft Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent Renown that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent Renown has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its

Interlocutory Orders, Etc.

Complaint, makes the following jurisdictional findings, and issues the following Order Suspending Enforcement of the Renown Non-Compete (“Order to Suspend Enforcement”):

1. Respondent Renown is a not-for-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.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent Renown, and the proceeding is in the public interest.

ORDER**I.**

IT IS ORDERED that, all the capitalized terms used in this Order to Suspend Enforcement, but not defined herein, shall have the meanings attributed to such terms in the Decision and Order contained in the Consent Agreement. In addition to the definitions in Paragraph I of the Decision and Order attached to the Agreement Containing Consent Orders, the following definitions shall apply:

- A. “Decision and Order” means:
 1. the Proposed Decision and Order contained in the Consent Agreement in this matter until the issuance of a final Decision and Order by the Commission; and
 2. the Final Decision and Order issued and served by the Commission.
- B. “Monitor” means any monitor appointed pursuant to Paragraph III of the Order to Suspend Enforcement.
- C. “Termination Date” means the date on which the Decision and Order becomes final, or on the date Renown Health receives notice from the Commission

Interlocutory Orders, Etc.

that a final Decision and Order will not be issued in this matter.

II.

IT IS FURTHER ORDERED that Renown Health shall:

- A. From the date this Order to Suspend Enforcement becomes final until the Termination Date (“Suspension Period”), not enforce any Renown Non-Compete Provisions against any Cardiologist Employee for any activity that Cardiologist Employee engages in that Relates To providing Termination Notification; *provided, however*, that this Paragraph II.A does not prohibit Renown Health from enforcing any Renown Non-Compete Provisions against any Cardiologist Employee who terminates Contract Services prior to the date the Decision and Order becomes final.
- B. Within three (3) days from the date this Order to Suspend Enforcement becomes final, certify that Renown Health has sent by first-class mail, return receipt requested to each Cardiologist Employee the letter attached as Appendix A to this Order within two (2) days of the Agreement Containing Consent Order in this matter being placed on the public record.
- C. For any activity Related To this Paragraph II, waive all rights to seek or obtain legal or equitable relief for breach of contract or for violation by any Cardiologist Employee of any Renown Non-Compete Provisions.
- D. Not take any other action to discourage, impede, or otherwise prevent any Cardiologist Employee from seeking to terminate Contract Services, pursuant to this Paragraph II.
- E. The purpose of this Paragraph is to ensure that those Cardiologist Employees who seek to terminate their Contract Services can offer Cardiology Services in a Reno Cardiology Practice in competition with Renown

Interlocutory Orders, Etc.

Health and to remedy the lessening of competition alleged in the Commission's Complaint.

III.**IT IS FURTHER ORDERED** that:

- A. Judge Charles McGee shall be appointed Monitor to assure that Renown Health expeditiously complies with all of its obligations and performs all of its responsibilities as required by this Order.
- B. No later than one (1) day after the Commission accepts the Order to Suspend Enforcement issues, Renown Health shall, pursuant to the Monitor Agreement, attached as Appendix B and Confidential Appendix B-1 to this Order, transfer to the Monitor all the rights, powers, and authorities necessary to permit the Monitor to perform its duties and responsibilities in a manner consistent with the purposes of this Order.
- C. In the event a substitute Monitor is required, the Commission shall select the Monitor, subject to the consent of Renown Health, which consent shall not be unreasonably withheld. If Renown Health has not opposed, in writing, including the reasons for opposing, the selection of a proposed Monitor within ten (10) days after notice by the staff of the Commission to Renown Health of the identity of any proposed Monitor, Renown Health shall be deemed to have consented to the selection of the proposed Monitor. Not later than ten (10) days after appointment of a substitute Monitor, Renown Health shall execute an agreement that, subject to the prior approval of the Commission, confers on the Monitor all the rights and powers necessary to permit the Monitor to monitor Renown Health's compliance with the terms of this Order and the Order to Suspend Enforcement in a manner consistent with the purposes of this Order.

Interlocutory Orders, Etc.

- D. In the event a substitute Monitor is required, the Commission shall select the Monitor, subject to the consent of Renown Health, which consent shall not be unreasonably withheld.
- E. Renown Health shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor:
1. The Monitor shall have the power and authority to monitor Renown Health's compliance with the terms of this Order to Suspend Enforcement, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of this Order to Suspend Enforcement and in consultation with the Commission, including, but not limited to:
 - a. receiving Termination Notification from Cardiologist Employees;
 - b. notifying each Cardiologist Employee that submitted a Termination Notification whether or not such notification will be an Acceptable Notification; and
 - c. assuring that Renown Health expeditiously complies with all of its obligations and performs all of its responsibilities as required by the this Order.
 2. The Monitor shall act in a fiduciary capacity for the benefit of the Commission.
 3. The Monitor shall serve for such time as is necessary to monitor Renown Health's compliance with the Paragraph II.
 4. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to Renown Health's personnel, books, documents, records kept in the ordinary course of

Interlocutory Orders, Etc.

business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Renown Health's compliance with its obligations under this Order to Suspend Enforcement. Renown Health shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Renown Health's compliance with this Order to Suspend Enforcement.

5. The Monitor shall serve, without bond or other security, at the expense of Renown Health on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have authority to employ, at the expense of Renown Health, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities. The Monitor shall account for all expenses incurred, including fees for services rendered, subject to the approval of the Commission.
6. Renown Health shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence, willful or wanton acts, or bad faith by the Monitor.
7. Renown Health shall report to the Monitor in accordance with the requirements of this Order and/or as otherwise provided in any agreement approved by the Commission. The Monitor shall evaluate the reports submitted to the Monitor by

Interlocutory Orders, Etc.

Renown Health with respect to the performance of Renown Health's obligations under this Order to Suspend Enforcement.

8. Within one (1) month from the date the Monitor is appointed pursuant to this paragraph, every sixty (60) days thereafter, until the termination of this Order to Suspend Enforcement, and otherwise as requested by the Commission, the Monitor shall report in writing to the Commission concerning performance by Renown Health of its obligations under this Order to Suspend Enforcement.
 9. Renown Health may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, that such agreement shall not restrict the Monitor from providing any information to the Commission.
- F. The Commission may, among other things, require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement Relating To Commission materials and information received in connection with the performance of the Monitor's duties.
- G. If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor in the same manner as provided in this Paragraph III.
- H. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order to Suspend Enforcement.
- I. The Monitor appointed pursuant to Paragraph III of this Order to Suspend Enforcement may be the same

Interlocutory Orders, Etc.

Person appointed as Monitor under the Decision and Order.

IV.

IT IS FURTHER ORDERED that within thirty (30) days after the date this Order to Suspend Enforcement becomes final, and every sixty (60) days thereafter until this Order to Suspend Enforcement terminates, Renown Health shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order to Suspend Enforcement

V.

IT IS FURTHER ORDERED that Renown Health shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of Renown Health,
- B. Any proposed acquisition, merger or consolidation of Renown Health, or
- C. Any other change in Renown Health, including but not limited to assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order to Suspend Enforcement.

VI.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order to Suspend Enforcement, and subject to any legally recognized privilege, and upon written request with reasonable notice to Renown Health, Renown Health shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Renown Health and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of

Interlocutory Orders, Etc.

Renown Health related to compliance with this Order to Suspend Enforcement, which copying services shall be provided by Renown Health at the request of the authorized representative(s) of the Commission and at the expense of Renown Health; and

- B. Upon five (5) days' notice to Renown Health and without restraint or interference from Renown Health, to interview officers, directors, or employees of Renown Health, who may have counsel present, regarding such matters.

VII.

IT IS FURTHER ORDERED that this Order to Suspend Enforcement shall terminate on the Termination Date.

By the Commission.

Interlocutory Orders, Etc.

Appendix A - Letter to Cardiologist Employees

Dear Physician:

Renown Health (“Renown”) has entered into an agreement with the Federal Trade Commission to resolve allegations that its acquisitions of certain cardiology medical practices and employment of the associated physicians has or will restrict competition in violation of Section 7 of the Clayton Act. Although Renown has not admitted liability or admitted that the facts alleged in the Commission’s complaint (other than jurisdictional facts) are true, it has agreed to two FTC orders containing certain terms which the Commission believes will ameliorate the competitive effects of the acquisitions.

For your convenience, Renown’s obligations under the FTC’s Orders, including the terms under which you may terminate your employment, are summarized below. These obligations are described more fully in the FTC’s Orders and its Analysis to Aid Public Comment which are both attached to this letter. **Nothing in this summary is intended to modify any of the terms of the Commission’s Orders or to provide legal advice.**

Description of the Orders: The first order (“Order to Suspend Enforcement of Renown Non-Compete” or “Order to Suspend”) establishes a period of time during which you, as a cardiologist currently employed by Renown, may explore all employment and professional opportunities in the Reno/Sparks area, whether as an employee, a member of a medical group, or in private practice. Renown cannot enforce any non-compete or non-solicitation provisions in your employment contract to interfere with your discussions during this time period. If you actually terminate your employment with Renown during this period, however, the Order to Suspend does not prohibit Renown from pursuing its contract rights.

The second order (“Decision and Order”), if accepted by the Commission after a period allowing for public comment, will allow you to terminate your employment with Renown without penalty so long as the following conditions are met:

Interlocutory Orders, Etc.

- (1) You must submit written notice of your intention to terminate your employment with Renown to the special monitor who has been appointed for the purpose of assuring confidentiality. Contact information for the monitor is provided at the conclusion of this letter;
- (2) You must intend to continue to practice in the Reno/Sparks area for at least one year;
- (3) You must be among the first 10 physicians to submit your notice to terminate employment. Renown is not required to terminate more than 10 employment contracts. To protect the confidentiality of the doctors who want to leave, the monitor will submit to Renown no more than the first 10 notices he receives; and
- (4) You must leave employment with Renown within 60 days of Renown receiving your notice from the monitor, but you may not leave prior to the monitor delivering your notice to Renown.

Timing of the Orders: The Order to Suspend begins on August 6, 2012, and continues for at least 30 days while the Commission receives public comment on the Decision and Order and considers those comments. You may enter into discussions and negotiations for new employment during this period. If you decide during this period to terminate your employment, you may notify the special monitor so that your name will be included in the event that the Decision and Order is accepted as final. Because the Order to Suspend will continue in effect until the Commission votes to accept (or reject) the Decision and Order, the conclusion of this time period cannot be determined at this time. It will, however, not end before September 5, 2012.

If the Commission accepts and issues the Decision and Order as final, a second 30-day period (Release Period) will begin. During this period, you may begin or continue discussions and negotiations for new employment. If you decide to terminate your employment, you should notify the monitor of your intention. The monitor will forward to Renown the names of the first ten physicians who have provided notice of their desire to terminate their employment. Renown is not required to allow

Interlocutory Orders, Etc.

more than 10 physicians who have given notice to the monitor and satisfied all of the conditions described above to terminate their employment without any penalty. On the other hand, if at the end of this 30-day Release Period fewer than six doctors have notified the monitor of their intent to terminate employment, the period in which cardiologists may continue to explore other employment opportunities and leave Renown's employment without penalty will remain open. This period will continue to remain open until six (rather than 10) cardiologists have terminated their employment with Renown.

PLEASE NOTE:

- The Orders do not **require** any doctor to terminate employment with Renown or to work for any other entity.
- The Orders do not **require** Renown to fire any doctors. However, the Orders also do not prohibit Renown from negotiating with a doctor regarding a mutual agreement for that physician's employment to be terminated.
- The Orders prohibit Renown from enforcing any non-compete or non-solicitation provisions in any contract, pursuing any breach of contract action, or taking any retaliatory action against any physician who either terminated his or her employment under the terms of the Orders or who sought new employment as allowed by the Orders but decided not to leave.
- If you terminate your employment at times or under terms not described in the Decision and Order, the Decision and Order does not prohibit Renown from pursuing its contract rights.
- Renown may be required to provide you with transitional assistance if you terminate employment to practice as an independent physician (rather than as an employee of another entity) in the Reno/Sparks area. Please review the proposed Decision and Order and your employment agreement with Renown (or contact the monitor) to determine whether these transitional services are available to you.

Interlocutory Orders, Etc.

- If six or more physicians have terminated their employment with Renown by the end of the Release Period, Renown may pursue its legal remedies against any employee who *subsequently* terminates employment with Renown in violation of that employee's contract.

If you have questions about the information contained in this letter or in the Analysis to Aid Public Comment, including questions regarding timing or implementation of the Orders, please contact the monitor, Judge Charles McGee at (775) 823-9975, or FTC's Bureau of Competition's Compliance Division at (202) 326-2031.

Written notifications of intent to terminate employment should be provided to:

Judge Charles McGee
1575 Delucchi Lane, Suite115-1
Reno, NV 89502
Facsimile: (775) 823-9973
Email: [judgemcgee@msn.com](mailto:judgetcmcg@msn.com)

Interlocutory Orders, Etc.

Appendix B – Monitor Agreement [Redacted Public Version]

MONITOR AGREEMENT

This Monitor Agreement ("Monitor Agreement") entered into this 18th day of July, 2012 by Renown Health and Judge Charles McGee provides as follows:

WHEREAS, the United States Federal Trade Commission (the "Commission"), *In the Matter of Renown Health*, has accepted for public comment an Agreement Containing Consent Order ("Consent Agreement"), incorporating an Order to Suspend Enforcement of Renown Non-Compete ("Order to Suspend Enforcement") and a Decision and Order ("Decision and Order"), collectively referred to as the "Commission Orders," with Renown Health, and the State of Nevada, through its Attorney General ("Nevada Attorney General"), has filed in the United States District Court for the District of Nevada, a Final Judgment ("Nevada Order") with Renown Health (collectively, the Commission Orders and the Nevada Order are referred to as the "Orders"). The Orders, among other things, require Renown Health to waive enforcement of certain contractual terms with its Cardiologist Employees so that a certain number of those employees can leave Renown Health's employment to practice cardiology in the Reno area, and provides for the appointment of one or more Monitors to ensure that Renown Health complies with its obligations under the Orders;

WHEREAS, the staff of the Commission and the Nevada Attorney General have appointed Charles McGee as such monitor (the "Monitor") pursuant to the Orders to monitor Renown Health's compliance with the terms of the Consent Agreement and Orders, and Charles McGee has consented to such appointment;

WHEREAS, the staff of the Commission and the Nevada Attorney General on July 17, 2012 notified Renown Health of the selection of Judge Charles McGee as the Monitor, and Renown Health on July 18, 2012 agreed to the selection of Judge Charles McGee, and is executing this agreement that, subject to the prior approval of the Commission and the Nevada Attorney General, confers on the Monitor all the rights and powers necessary to permit the Monitor to monitor Renown Health's compliance with the relevant requirements of the Orders in a manner consistent with the purpose of the Orders;

WHEREAS, this Monitor Agreement, although executed by the Monitor and Renown Health is not effective for any purpose, including but not limited to imposing rights and responsibilities on Renown Health or the Monitor under the Orders, until it has been approved by the Commission and the Nevada Attorney General; and

WHEREAS, the parties to this Monitor Agreement intend to be legally bound;

NOW, THEREFORE, the parties agree as follows:

1. Capitalized terms used herein and not specifically defined herein shall have the respective definitions given to them in the Orders.
2. The Monitor shall have all of the powers and responsibilities conferred upon the Monitor by the Orders.

Interlocutory Orders, Etc.

3. Renown Health hereby agrees that it will fully comply with all terms of the Orders requiring it to confer all rights, powers, authority and privileges upon the Monitor, or to impose upon itself any duties or obligations with respect to the Monitor, to enable the Monitor to perform the duties and responsibilities of the Monitor thereunder.
4. The Monitor shall have the power and authority to monitor Renown Health's compliance with the terms of the Orders, and shall carry out the duties of the Monitor in consultation with the Commission and the Nevada Attorney General, including but limited to:
 - a. receiving Termination Notifications from Cardiologist Employees;
 - b. receiving from Renown Health notification that it has terminated the employment of a Cardiologist Employee;
 - c. notifying each Cardiologist Employee that submitted a Termination Notification whether or not such notification will be an Acceptable Termination;
 - d. forwarding all Acceptable Terminations to Renown Health pursuant to the Order; and
 - e. assuring Renown Health's expeditious compliance with all of its obligations and performance of all of its responsibilities as required by the Orders.
5. Renown Health further agrees that:
 - a. it will provide the Monitor with copies of all reports submitted to the Commission and the Nevada Attorney General pursuant to the Orders, simultaneous with the submission of such reports to the Commission and the Nevada Attorney General, for the duration of the Monitor's term under this Agreement;
 - b. it will, subject to any demonstrated legally recognized privilege, grant the Monitor full and complete access to Renown Health's personnel, books, documents, records kept in the normal course of business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Renown Health's compliance with their obligations under the Orders; and
 - c. it will cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Renown Health's compliance with the Orders.
6. Renown Health shall promptly notify the Monitor of any significant written or oral communication that occurs after the date of this Monitor Agreement between Renown Health, the Commission, and the Nevada Attorney General related to the Orders, together with copies of such communications.

Interlocutory Orders, Etc.

7. The Monitor shall serve, without bond or other security, at the expense of Renown Health on such reasonable and customary terms and conditions as the Commission and the Nevada Attorney General may set. The Monitor shall have authority to employ, at the expense of Renown Health, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities.
8. Renown Health shall pay the Monitor, in accordance with the fee schedule attached hereto as Confidential Appendix A, for all reasonable time spent in the performance of the Monitor's duties and responsibilities, including all monitoring activities, all work in connection with the negotiation and preparation of this Monitor Agreement, all work in the nature of final reporting and file closure, and all reasonable and necessary travel time.
 - a. In addition, Renown Health will pay (i) all out-of-pocket expenses reasonably incurred by the Monitor in the performance of the Monitor's duties and responsibilities, including any international telephone calls and any auto, train or air travel in the performance of the Monitor's duties, and (ii) all fees and disbursements reasonably incurred by such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities.
 - b. The Monitor shall have full and direct responsibility for compliance with all applicable laws, regulations and requirements pertaining to work permits, income and social security taxes, unemployment insurance, worker's compensation, disability insurance, and the like.
9. The Monitor shall maintain the confidentiality of all information provided to the Monitor by Renown Health. Such information shall be used by the Monitor only in connection with the performance of the Monitor's duties pursuant to this Monitor Agreement. Such information shall not be disclosed by the Monitor to any third party other than:
 - a. persons employed by, or working with, the Monitor under this Monitor Agreement, in which case such persons shall be informed of, and agree in writing to abide by, the confidentiality obligations applicable to the Monitor, in accordance with Paragraph 12 below, or
 - b. persons employed at or retained by the Commission or the Nevada Attorney General who are working on this matter.
10. The Monitor shall maintain a record and inform the Commission and the Nevada Attorney General of all persons (other than representatives of the Commission and the Nevada Attorney General) to whom confidential information related to this Monitor Agreement has been disclosed.

Interlocutory Orders, Etc.

11. The Monitor shall act in a fiduciary capacity for the benefit of the Commission and the Nevada Attorney General.
12. Upon termination of the Monitor's duties under this Monitor Agreement, the Monitor shall promptly return to Renown Health all material provided to the Monitor by Renown Health and shall destroy any material prepared by the Monitor that contains or reflects any confidential information of Renown Health. Nothing herein shall abrogate the Monitor's duty of confidentiality.
13. To the extent that the Monitor wishes to retain any employee, agent, consultant or any other third party to assist the Monitor in accordance with the Orders, the Monitor shall ensure that, prior to being retained, such persons execute a confidentiality agreement in a form agreed upon by the Monitor and Renown Health.
14. Nothing in this Monitor Agreement shall require Renown Health to disclose any material or information that is subject to a legally recognized privilege or that Renown Health is prohibited from disclosing by reason of law or an agreement with a third party.
15. Each party shall be reasonably available to the other to discuss any questions or issues that either party may have concerning compliance with the Orders as they relate to Renown Health.
16. Renown Health hereby confirms its obligation to indemnify the Monitor and hold the Monitor harmless in accordance with and to the extent required by the Orders. Renown Health shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence, willful or wanton acts, or bad faith by the Monitor.
17. In the event of a disagreement or dispute between Renown Health and the Monitor concerning Renown Health's obligations under the Orders, and in the event that such disagreement or dispute cannot be resolved by the parties, either party may seek the assistance of the Commission's Compliance Division or the staff of the Nevada Attorney General to resolve this issue.
18. This Monitor Agreement shall be subject to the substantive law of the State of Nevada (regardless of the choice of law principles of Nevada or those of any other jurisdiction).
19. This Monitor Agreement shall terminate when the last obligation under Paragraphs II, III, IV.A.1-4, and V of the Decision and Order and Paragraphs 33, 34, 35(a)-(d), and 36 of the Nevada Order have been fully performed; provided, however, that the Commission and the Nevada Attorney General may extend this Monitor Agreement as may be necessary or appropriate to accomplish the purposes of the Orders.

Interlocutory Orders, Etc.

20. In the event that, during the term of this Monitor Agreement, the Monitor becomes aware that he has or may have a conflict of interest that may affect or could have the appearance of affecting the performance by the Monitor of any of his duties under this Monitor Agreement, the Monitor shall promptly inform Renown Health, the Commission, and the Nevada Attorney General of such conflict or potential conflict.
21. In the performance of his functions and duties under this Monitor Agreement, the Monitor shall exercise the standard of care and diligence that would be expected of a reasonable person in the conduct of his or her own business affairs.
22. It is understood that the Monitor will be serving under this Monitor Agreement as an independent contractor and that the relationship of employer and employee shall not exist between Monitor and Renown Health.
23. This Monitor Agreement is for the sole benefit of the parties hereto and their permitted assigns, the Commission, and the Nevada Attorney General, and nothing herein express or implied shall give or be construed to give any other person any legal or equitable rights hereunder.
24. This Monitor Agreement contains the entire agreement between the parties hereto with respect to the matters described herein and replaces any and all prior agreements or understandings, whether written or oral.
25. Any notices or other communication required to be given hereunder shall be deemed to have been properly given if sent by mail, facsimile (with acknowledgment of receipt of such facsimile having been received), or electronic mail, to the applicable party at its address below (or to such other address as to which such party shall hereafter notify the other party):

If to the Monitor, to:

Judge Charles McGee
1575 Delucchi Lane, Suite 115-1
Reno, NV 89502

Telephone: (775) 823-9975
Facsimile: (775) 823-9973
Email: judgetcmcg@msn.com

If to Renown Health, to:

Renown Health
Attention: Kelly Testolin, General Counsel
1155 Mill Street, Z-7

Interlocutory Orders, Etc.

Reno, NV 89502

Telephone: (775) 982-6054
Facsimile: (775) 982-5754
Email: ktestolin@renown.com

With copy to:

William Berlin
Ober Kaler
1401 H Street, N.W., Suite 500
Washington, DC 20005

Telephone: (202) 326-5011
Facsimile: (202) 408-0640
Email: weberlin@ober.com

If to the Commission, to:

Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
Attention: Secretary
Telephone: (202) 326-2514
Facsimile: (202) 326-2496

With copy to:

Federal Trade Commission
601 New Jersey Avenue, N.W.
Washington, D.C. 20001
Attention: Assistant Director for Compliance
Telephone: (202) 326-2526
Facsimile: (202) 326-3396

If to the Nevada Attorney General, to:

State of Nevada Office of the Attorney General
Bureau of Consumer Protection
Attention: Antitrust Unit
10791 W. Twain Avenue, Suite 100
Las Vegas, NV 89135
Telephone: (702) 486-3420
Facsimile: (702) 486-3283

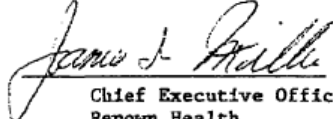
Interlocutory Orders, Etc.

26. This Monitor Agreement shall not become binding until it has been approved by the Commission and the Nevada Attorney General.

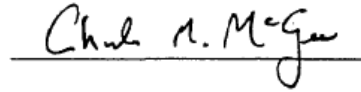
27. This Monitor Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Monitor Agreement as of the date first above written.

Renown Health


Chief Executive Officer
Renown Health

MONITOR



Interlocutory Orders, Etc.

Confidential Appendix B-1

**[Redacted From the Public Version, But Incorporated By
Reference]**

Interlocutory Orders, Etc.

IN THE MATTER OF

**MCWANE, INC.
AND
STAR PIPE PRODUCTS, LTD.**

Docket No. 9351. Order, August 6, 2012

Order denying respondent's motion requesting the Commission conduct an oral argument on motions for summary disposition.

ORDER DENYING REQUEST FOR ORAL ARGUMENT

On June 8, 2012, Respondent McWane, Inc. (hereinafter "Respondent") filed a Motion For Summary Decision, and Complaint Counsel filed a Motion For Partial Summary Decision. On July 3, 2012, Respondent filed a Notice of Request For Oral Argument (hereinafter "Motion") in which Respondent requested "oral argument on the pending motions for summary disposition." Although the filing is styled as a Notice of Request, the Commission has determined to treat the filing as a Motion which Complaint Counsel have not opposed.¹

Commission Rule 3.52(h), 16 C.F.R. § 3.52(h), provides in relevant part that "oral argument will be held in all cases on appeal or review to the Commission, unless the Commission otherwise orders . . ." There is no equivalent rule addressing oral argument relating to motions for summary disposition. Moreover, Respondent's Motion does not provide an explanation as to why oral argument is necessary.² The parties have filed extensive briefs covering the issues presented by the motions for summary disposition, and oral argument is not likely to provide any additional information not already thoroughly addressed in those

¹ Commission Rule 3.22(d), 16 C.F.R. § 3.22(d), provides that if a party opposing a given Motion does not file an Answer, the party will be deemed to have consented to granting the relief requested in the Motion.

² Indeed, although Commission Rule 3.22(c), 16 C.F.R. § 3.22(c), provides in relevant part that all Motions must state "the grounds" for the action requested, Respondent's Motion states only that "McWane respectfully requests oral argument on the pending motions for summary disposition."