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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, STATE OF FLORIDA,

Plaintiff,

vs. CASE NO. _____

FLORIDA CANCER SPECIALISTS & RESEARCH INSTITUTE, LLC

Defendant.
_____/

JOINT STIPULATION FOR ENTRY OF CONSENT DECREE AND FINAL JUDGMENT

It is stipulated between Plaintiff and Defendant, by and through their respective undersigned counsel, that a Consent Decree and Final Judgment may enter in the form attached hereto, and made part hereof, without further notice.

STIPULATED AND AGREED TO BY:

Dated this 30th day of April, 2020

ON BEHALF OF PLAINTIFF:

ASHLEY MOODY
Attorney General

/s/ Timothy Fraser
Patricia A. Conners
Chief Associate Deputy Attorney General
Florida Bar No. 361275
R. Scott Palmer
Special Counsel for Antitrust Enforcement
Florida Bar No. 220353
Timothy M. Fraser
Assistant Attorney General
Florida Bar No. 957321
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Assistant Attorney General
Florida Bar No. 104741
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 414-3300

ON BEHALF OF DEFENDANT:

FOLEY & LARDNER LLP

/s/ H. Holden Brooks
H. Holden Brooks
Wis. Bar No. 1071254
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: (414) 297-5711

Pro Hac Vice motion forthcoming

Notification to The Florida Bar and fee forthcoming

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

Case No.

vs.

FLORIDA CANCER SPECIALISTS &
RESEARCH INSTITUTE, LLC,

Defendant.

_____/

STIPULATED CONSENT DECREE AND FINAL CONSENT JUDGMENT

Plaintiff, Office of Attorney General, Department of Legal Affairs, State of Florida, ("Attorney General") has filed a Complaint on April 30, 2020, against Defendant, Florida Cancer Specialists & Research Institute, LLC, a Florida Limited Liability Company ("FCS"), pursuant to provisions of the Florida Antitrust Act, Chapter, 542, Florida Statutes (2019), and the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2019). The Attorney General and FCS (collectively, "the Parties"), by and through its attorneys, have consented to the entry of this Final Consent Judgment ("Consent Judgment") for the purposes of settlement only, without any admission by any party, and without trial and finding of any issues of fact or law. All parties consent to the jurisdiction of this Court and hereby consent to the relief provided by this order, waiving any defenses, including service of process.

Now therefore, without trial or adjudication of any issue of fact or law, it is hereby ORDERED, ADJUDGED, AND DECREED:

PARTIES

1. The Attorney General is charged with, among other things, the responsibility of enforcing the Florida Antitrust Act, ("FAA"), Chapter 542, Florida Statutes (2019) and the Florida Deceptive and Unfair Trade Practices Act, ("FDUTPA") Chapter 501, Part II, Florida Statutes (2019).

2. FCS is an active Florida limited liability company, registered with the Florida Department of State, Division of Corporations, with operations in Florida.

3. FCS, at all times material hereto, FCS was engaged in "trade or commerce" as defined in Sections 542.17(4) and 501.203(8), Florida Statutes (2019), within the State of Florida.

JURISDICTION

4. This Court has Jurisdiction over the subject matter of this lawsuit and the Parties do not contest the Court's jurisdiction over them.

GOVERNING LAW

5. The terms of this Consent Judgment shall be governed by the laws of the State of Florida.

TERM

6. The term of this Consent Judgment shall be three (3) years ("the Term").

7. The Attorney General may seek Court approval to extend the judgment for an additional three (3) years in the event that it believes that a violation of this Consent Judgment has occurred, subject to Paragraph 28.

PROHIBITED CONDUCT

8. During the Term FCS shall not:

(1) enter into an agreement with a competitor, or with a potential competitor, that allocates one or more geographic or product markets in the State of Florida in violation of the antitrust laws of the State of Florida and/or of the United States;

(2) honor or enforce any market allocation agreements FCS may have entered into with a competitor, or with a potential competitor, involving markets or services provided in the State of Florida that violate the antitrust laws of the State of Florida and/or of the United States.

(3) violate any other provision of the Sherman Act, the Florida Antitrust Act, or engage in any unfair methods of competition prohibited by the Florida Deceptive and Unfair Trade Practices Act.

9. Any violation of Paragraph 8 above shall constitute a violation of this Consent Judgment.

COOPERATION

10. This Consent Judgment is the result of an investigation by the Attorney General into the provision of oncology services in Florida. FCS has cooperated and will continue to cooperate with the Attorney General in its ongoing investigation.

11. FCS will cooperate with the Attorney General in fulfillment of FCS's obligations under this Consent Judgment. For the sole purpose of determining or securing compliance with the Consent Judgment, the Attorney General shall be permitted, upon reasonable notice and during normal business hours to a) access all non-privileged documents in the possession or control of FCS relating to any matters contained in this Consent Judgment; b) to interview FCS's officers, directors, managers and employees, who may have counsel present, regarding any matters contained in this Stipulated Judgment; and c) to obtain written reports from FCS relating to such FCS's compliance with the requirements set forth in this Consent Judgment.

CONDUCT RELIEF

12. During the Term:

a) FCS agrees to waive and not enforce any and all provisions restricting competition with FCS in the provision of oncology services and solicitation of FCS employees in any contract or agreement that would otherwise apply to any current or former partners, members, officers, directors, employees, and agents of FCS or any of its subsidiaries or corporate affiliates who join an oncology practice in Lee, Collier, or Charlotte counties or open an oncology practice in Lee, Collier, or Charlotte counties; and

b) FCS agrees to:

i. maintain its existing Antitrust Policy and provide prompt notice to the Attorney General of any material changes to the Policy;

ii. require all FCS Executive Board members and FCS officers to annually certify that they have read the Policy and agree to comply with the Policy and maintain a file of such certifications;

iii. provide annual antitrust training of no less than one hour, delivered by an attorney with relevant antitrust experience, to the FCS Executive Board, FCS officers, FCS business leadership in the areas of business development, marketing, human resources, managed care contracting, and procurement, as well as FCS physicians;

iv. provide annual antitrust training to all FCS employees as a component of FCS annual compliance training;

v. provide antitrust training to all new FCS Executive Board members, new FCS officers, and new FCS business leadership in the areas of business development, marketing, human resources, managed care contracting, and procurement within 60

calendar days of those individuals starting those positions, to the extent that they have not received such training within the prior calendar year;

vi. maintain a compliance officer with oversight over antitrust compliance; and

vii. require that all transactions and formal affiliations with competitors and potential competitors in the provision of oncology services are reviewed by the Chief Compliance Officer and counsel with relevant antitrust experience and approved by the FCS Executive Board.

MONETARY PROVISIONS

13. FCS shall pay a total settlement amount of twenty million dollars ($20,000,000), plus statutory interest, over a four-year period, to the Attorney General (the "Settlement Proceeds"). The payments shall commence no later than September 1, 2020 and end no later than August 30, 2024. The payments shall be made in monthly installments of no less than $250,000, plus statutory interest, with the total annual payment per year to be no less than $5,000,000, plus statutory interest. The Settlement Proceeds may be paid in full before August 30, 2024, without penalty to either party.

RESOLUTION OF INVESTIGATION

14. Entry of this Consent Judgment is in the public interest and reflects a negotiated settlement among the Parties.

15. The Parties have agreed to resolve and settle the issues resulting from the conduct alleged in the Complaint by entering into this Consent Judgment.

16. FCS enters into this Consent Judgment solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission or concession of any specific violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing. FCS does not admit any specific violation of the FAA or FUDTPA, and

does not admit any specific wrongdoing that was or could have been alleged by the Attorney General. No part of this Consent Judgment, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by FCS. This document and its contents are not intended for use by any third party for any purpose, including submission to any court for any purpose. This Consent Judgment shall not be construed or used as a waiver or limitation of any legal right, remedy, or defense otherwise available to FCS in any action, or of FCS' right to defend itself from, or make any arguments in, any private individual, regulatory, governmental, or class claims or suits relating to the subject matter or terms of this Consent Judgment.

17. This Consent Judgment is made without trial or adjudication of any issue of fact or law, or finding of liability of any kind. Notwithstanding the foregoing, the Attorney General may file an action to enforce the terms of this Consent Judgment.

18. This Consent Judgment (or any portion thereof) shall in no way be construed to prohibit FCS from offering, providing and marketing any services that are permitted under United States or Florida law or regulations.

19. Upon execution of this Consent Judgment, and subject to Paragraph 10, the Attorney General shall terminate every existing civil investigation, inquiry, claim or proceeding (whether formal or informal) as to FCS, its predecessors, subsidiaries, divisions, business units, and current and former directors, officers, or employees of any of them arising out of the acts and practices that are the subject of the investigation resolved by this Consent Judgment. Such termination as to FCS shall not terminate, or in any way affect, any civil investigation, inquiry, claim or proceeding as to any other non-FCS person, firm, association, business, or corporation whatsoever.

20. By its execution of this Consent Judgment and except as provided for herein, the Attorney General agrees that, other than the Settlement Proceeds, it shall have no other recovery of costs, fees, attorneys' fees, damages, penalties, fines, forfeitures, punitive recoveries, or injunctive or other relief against FCS, its predecessors, subsidiaries, divisions, business units, and current and former directors, officers, or employees of any of them. In consideration of the settlement proceeds FCS, its predecessors, subsidiaries, divisions, business units, and current and former directors, officers, or employees of any of them shall be completely released, acquitted, and forever discharged from any and all claims, demands, judgments, actions, suits or causes of action (including, but not limited to, under the FAA or FDUPTA), that are or could be asserted, whether known or unknown in any actions by or on behalf of the Attorney General arising out of or relating to any act or omission of FCS concerning any market allocation or any unfair methods of competition in the provision of oncology services in Florida.

21. The released claims do not include any claims unrelated to the Complaint initiating this action, including but not limited to any claims arising out of Medicaid violations or fraud, product liability, failure to disclose, misrepresentation, breach of warranty, or breach of contract claims in the ordinary course of business, or unfair or deceptive conduct not based on allegations of market allocation of one or more geographic or product markets or other violations of the FAA or the Sherman Act in the provision of oncology services.

22. The Attorney General and FCS intend by this Consent Judgment to release only FCS, its predecessors, subsidiaries, divisions, business units, and current and former directors, officers, or employees of any of them with respect to the released claims, and specifically do not intend this Consent Judgment to settle, compromise, or otherwise affect in any way rights the Attorney General has or may have against any other person, firm, association, business, or

corporation whatsoever. Nothing in this Agreement shall affect the right of the Florida AG to claim that joint and several liability of entities other than FCS includes FCS's volume of commerce.

23. The release provided herein shall not have an effect on any claims, under federal or Florida laws, brought by parties other than the Attorney General against FCS.

24. Nothing herein precludes the Attorney General from enforcing the provisions of this Consent Judgment, or from pursuing any law enforcement action with respect to the acts or practices of the FCS, which acts are outside the scope of the release set forth above. In particular, acts conducted after the entry of this Consent Judgment are not released and enforcement may arise as a result of such future act.

25. Nothing herein relieves any person or corporation of its duty to comply with all applicable laws nor constitutes authorization by the Attorney General of any person or corporation's past or future business practices.

26. This Consent Judgment does not provide nor shall it be interpreted to provide any legal rights or remedies of any nature to any third party.

27. It is the intent of the Parties that this Consent Judgment not be admissible in other cases or binding on FCS in any respect other than in connection with the enforcement of this Consent Judgment.

DISPUTE RESOLUTION

28. During the term of this Consent Judgment, if the Attorney General believes that there has been a violation of this Stipulated Judgment, then FCS shall be notified in writing thereof. The Attorney General shall thereafter permit FCS a reasonable opportunity to cure any alleged violation without instituting legal action. If the alleged violation is not substantially cured

by FCS within eighty (80) calendar days of the notification, the Attorney General may thereafter seek to undertake any remedial action deemed appropriate. This time period may be extended in circumstances where the 80-calendar-day period does not allow sufficient time to cure the alleged violation.

29. Nothing in this Consent Judgment shall be interpreted to limit the State's investigative subpoena authority, to the extent such authority exists under applicable state law, and FCS reserves all of its rights in responding to an investigative subpoena issued pursuant to such authority.

GENERAL PROVISIONS

30. The terms of this Consent Judgment are binding on FCS and its directors, officers, managers, employees, successors, and assigns.

31. This Consent Judgment does not constitute an approval by the Attorney General of FCS' business practices, and FCS shall make no representation or claim to the contrary.

32. This Court retains jurisdiction of this Consent Judgment and the Parties hereto for the purpose of enforcing and modifying this Consent Judgment and for the purpose of granting such additional relief as may be necessary and appropriate.

33. The signatures below indicate the parties' consent and agreement to this Consent Judgment.

34. The Consent Judgment may be modified by a stipulation of the Parties, once it is approved by, and becomes a Consent Judgment of the Court, or by court proceedings resulting in modifying Consent Judgment of the court.

35. This Consent Judgment may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

36. All notices under this Consent Judgment shall be provided to the following via-email and Overnight Mail.

For FCS:

Chief Legal Officer
Florida Cancer Specialists & Research Institute, LLC
4371 Veronica Shoemaker Blvd.
Fort Meyers, FL 33916

Notice shall be provided to any person subsequently designated by FCS to receive such notice of failure to comply.

For the State of Florida:

Patricia A. Conners
Chief Associate Deputy Attorney General
Scott Palmer
Special Counsel for Antitrust Enforcement
Timothy M. Fraser
Assistant Attorney General
Colin Fraser
Assistant Attorney General
Antitrust Division
PL-01, The Capitol
Tallahassee, FL 32399
Counsel for the State of Florida

37. To the extent that any provision of this Consent Judgment obligates FCS to change any policy(ies) or procedure(s) and to the extent not already accomplished, FCS shall implement the policy(ies) or procedure(s) as soon as reasonably practicable but no later than 80 calendar days after the Effective Date of this Consent Judgment.

Dated this 30th day of April, 2020

STIPULATED AND AGREED TO BY:

ON BEHALF OF PLAINTIFF:

ASHLEY MOODY
Attorney General

Timothy M. Fraser

Patricia A. Conners
Chief Associate Deputy Attorney General
Florida Bar No. 361275
R. Scott Palmer
Special Counsel for Antitrust Enforcement
Florida Bar No. 220353
Timothy M. Fraser
Assistant Attorney General
Florida Bar No. 957321
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ON BEHALF OF DEFENDANT:

FLORIDA CANCER SPECIALISTS & RESEARCH INSTITUTE

Thomas P. Clark
Chief Legal Officer
Florida Bar No. 510114
Florida Cancer Specialists & Research Institute
4371 Veronica Shoemaker Blvd.
Fort Myers, FL 33916
Florida Bar No. 510114

ORDERED and ADJUDGED in Leon County, Florida _____, 2020.

_____
Circuit Court Judge