

APR 8 1987

FILED

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JUN 25 9 03 AM '87

CLERK, U. S. DIST. COURT  
EASTERN DISTRICT OF CALIF.  
AT FRESNO  
BY \_\_\_\_\_  
DEPUTY

ENTERED

JUN 25 1987

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION  
CLERK, U. S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_  
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

NATIONAL MEDICAL ENTERPRISES,  
INC., and  
NME HOSPITALS, INC.,

Defendants.

Civil No. CV-F-83-481 REC

FINAL JUDGMENT

WHEREAS, plaintiff, United States of America, having filed its Amended Complaint herein on February 21, 1984, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against, an admission by, or an estoppel against any party with respect to any such issue;

1 AND WHEREAS, defendants have agreed to be bound by the  
2 provisions of this Final Judgment pending its approval by the  
3 Court;

4 NOW, THEREFORE, without adjudication of any issue of fact  
5 or law herein, and upon consent of the parties hereto, it is  
6 hereby

7 ORDERED, ADJUDGED and DECREED as follows:

8  
9 I.

10 This Court has jurisdiction over the subject matter of this  
11 action and over each of the parties hereto. The Amended  
12 Complaint states a claim upon which relief may be granted  
13 against defendants under Section 7 of the Clayton Act, as  
14 amended (15 U.S.C. § 18).

15 II.

16 As used in this Final Judgment:

17 A. "General acute care hospital" means any hospital  
18 facility with an organized medical staff which provides 24-hour  
19 acute inpatient care, including basic services (e.g., medical,  
20 nursing, surgical, anesthesia, laboratory, radiology, pharmacy  
21 and dietary), secondary services (e.g., obstetrics and  
22 pediatrics), or tertiary services (e.g., certain kinds of  
23 cancer and cardiac care).

1 B. "Modesto area market" means all of Stanislaus County  
2 (including the City of Modesto), California, except for the  
3 communities of Turlock and Denair, and also includes the  
4 communities of Ripon and Escalon in southern San Joaquin  
5 County, California.

6 C. "NME" means defendant National Medical Enterprises,  
7 Inc.; each division, subsidiary, or affiliate thereof  
8 (including defendant NME Hospitals, Inc.); and each officer,  
9 director, employee, attorney, agent, or other person acting for  
10 or on behalf of NME.

11 D. "Person" means any natural person, corporation,  
12 association, firm, partnership, or other business or legal  
13 entity.

### 14 III.

15 A. The provisions of this Final Judgment shall apply to  
16 NME, its successors or assigns, and to all other persons in  
17 active concert or participation with any of them who shall have  
18 received actual notice of this Final Judgment by personal  
19 service or otherwise.

20 B. NME shall require as a condition of the sale or other  
21 disposition of Doctors Medical Center in Modesto, California  
22 that the acquiring party agree to be bound by the provisions of  
23 this Final Judgment.



1 C. In the event that NME sells a division, subsidiary, or  
2 affiliate and that division, subsidiary, or affiliate does not  
3 own, operate, control, lease, or manage, directly or  
4 indirectly, any general acute care hospital in the Modesto area  
5 market, then said division, subsidiary, or affiliate shall,  
6 once sold, no longer be bound by this decree, and the entity  
7 purchasing said division, subsidiary, or affiliate shall not be  
8 bound by this decree simply as a result of said purchase.

9 IV.

10 NME is hereby enjoined and restrained for a period of ten  
11 (10) years from the entry of this Final Judgment from, directly  
12 or indirectly, purchasing, consolidating with, acquiring  
13 control of, entering into a management contract with, or  
14 leasing any general acute care hospital located in the Modesto  
15 area market without the prior written consent of plaintiff, or  
16 if plaintiff objects, the approval of the Court upon NME's  
17 establishing, by a preponderance of the evidence, that the  
18 proposed transaction will not substantially lessen competition  
19 or tend to create a monopoly in any line of commerce in any  
20 section of the country. In the event that NME shall seek the  
21 approval of the Court for a proposed transaction, plaintiff  
22 shall, if requested by NME and if plaintiff in the exercise of  
23 its discretion considers the request to be reasonable, join  
24 with NME in expediting any and all proceedings by the Court in  
25 connection therewith.  
26

V.

1 For the purpose of determining or securing compliance with  
2 this Final Judgment, and subject to any legally recognized  
3 privilege, from time to time:

4 A. Duly authorized representatives of the Department of  
5 Justice shall, upon written request of the Attorney General or  
6 of the Assistant Attorney General in charge of the Antitrust  
7 Division, and on reasonable notice to NME made to its principal  
8 office, be permitted:

- 9 (1) Access during office hours of NME to inspect and copy  
10 all books, ledgers, accounts, correspondence,  
11 memoranda, and other records and documents in the  
12 possession or under the control of NME, who may have  
13 counsel present, relating to any matters contained in  
14 this Final Judgment; and  
15 (2) Subject to the reasonable convenience of NME and  
16 without restraint or interference from it, to  
17 interview officers, employees and agents of NME, who  
18 may have counsel present, regarding any such matters.

19 B. Upon the written request of the Attorney General or of  
20 the Assistant Attorney General in charge of the Antitrust  
21 Division, made to NME's principal office, NME shall submit such  
22 written reports, under oath if requested, with respect to any  
23 of the matters contained in this Final Judgment as may be  
24 requested.  
25  
26

1 C. No information or documents obtained by the means  
2 provided in this Section V. shall be divulged by any  
3 representative of the Department of Justice to any person other  
4 than a duly authorized representative of the Executive Branch  
5 of the United States, except in the course of legal proceedings  
6 to which the United States is a party (including grand jury  
7 proceedings), or for the purpose of securing compliance with  
8 this Final Judgment, or as otherwise required by law.

9 VI.

10 Jurisdiction is retained by this Court for the purpose of  
11 enabling any of the parties to this Final Judgment to apply to  
12 this Court at any time for such further orders and directions  
13 as may be necessary or appropriate for the construction,  
14 implementation, or modification of any of the provisions of  
15 this Final Judgment, for the enforcement of compliance  
16 herewith, and for the punishment of any violations hereof.

17 VII.

18 This Final Judgment will expire on the tenth anniversary of  
19 the date of its entry by the Court.

20 VIII.

21 Entry of this Final Judgment is in the public interest.

22   
23 UNITED STATES DISTRICT JUDGE

24 Dated: June 24, 1987  
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