TESTIMONY OF JEFFREY HESSING

Received on October 17, 2013

In the United States Federal District Court for the District of Idaho

Saint Alphonsus Medical Center-Nampa, Inc., et. al. v. St. Luke's Health System Ltd., et. al.

Case No. 1:12-cv-00560-BLW

Page Range: 7:05-7:07

Q. Could you please state your full name for the record.
A. Jeffrey Glenn Hessing.

Page Range: 24:16-24:17

Q. You're an orthopedic surgeon?
A. That's correct.

Page Range: 29:11-29:18

Q. What percent interest do you hold in Treasure Valley Hospital?
A. We just went through a dilution of Treasure Valley. So I believe I'm about 3.28 or something like that.
Q. Prior to the dilution, what was your percent?
A. 4.

Page Range: 29:19-30:07

Q. And what precipitated the dilution?
A. Our need to go out and find some new partners where we lost some others.
Q. And who are the partners that you lost?
A. Well, the Saltzer ones that were all last fall. The volume dropped way down at the facility. It's coming back some now what -- some now -- some -- somewhat now.
But we needed to bring in some new partners, so we went out and found some additional physicians who were willing to come to the facility for patient satisfaction and quality care and low cost.

Page Range: 36:09-36:15

Q. Are there any other medical facilities in which you have a direct or indirect ownership interest?
A. Investors of Treasure Valley Hospital also have an ownership in the Nampa Surgery Center. It is our surgery center. It is not Saint Al's surgery center. It is ours.

Page Range: 36:21-37:04

Q. Well, when you say it is your surgery center and not Saint Al's, Saint Al's has a larger ownership interest in that facility than Treasure Valley Hospital; isn't that right?
A. Saint Al's owns 26 percent of the facility
Q. And how much does TVH own?

03 A. It is about 20 -- 21, 22, somewhere in
04 that range.

Page Range: 38:21-39:01

21 Q. Were any surgeons employed or in a
22 physician services arrangement with St. Luke's
23 offered an opportunity to invest in Treasure
24 Valley Surgery Center?
25 Not that I'm aware of
39:01 Why not?

Page Range: 39:04-39:09

04 THE WITNESS: We have a -- we have a fairly
05 strict noncompete at Treasure Valley Hospital.
06 Involvement, certainly as employed physicians,
07 would violate that noncompete. The PSA
08 arrangements would be determined on a case-by-
09 case basis.

Page Range: 39:12-39:14

12 You hold a leadership position at
13 Treasure Valley Hospital; is that right?
14 A. I'm the Medical Director.

Page Range: 45:05-45:10

5 Q. And -- now that -- the Treasure Valley
6 Surgery Center that was just opened in Nampa, was
7 opened in connection with -- that was the first
8 step in a plan to open some additional surgery
9 centers; is that right?
10 A. That's correct.

Page Range: 51:20-51:25

20 Q. BY MR. STEIN: Dr. Hessing, do you
21 agree that having an ownership interest in a
22 medical facility provides a surgeon with a
23 financial incentive to do procedures at that
24 facility?
25 A. I think that's a given, Counselor.

Page Range: 62:24-63:01

24 Q. And who are the other payers besides
25 Wells Fargo and Blue Cross that you've had
63:01 discussions with about bundled payments?

Page Range: 63:02-63:08

2 A. I said "they." I did not just give --
3 those are the two I recall, Counsel. There
4 haven't been others.
5 Q. So --
6 A. Although, we have discussed it with
7 PacificSource, and they have not responded at this
8 point.

Page Range: 63:09-64:12

09 Q. Wells Fargo healthcare division, does
10 that refer to the -- do they administer the
11 employee benefit plan -- or the health plan for

Wells Fargo employees?
A. They -- it's Wells Fargo Bank. My understanding in meeting with them is that they are in the boardrooms of several small businesses in Boise, and it's those small businesses that have come to them concerned about local health care costs.
And Wells Fargo has asked us in to present – presented our payment scheme at Treasure Valley as a potential cost savings and that they would make us a Tier 1 facility for what we do with those costs of those patients.
Q. And a "Tier 1 facility" means that it would be -- that people who are insured would have more of a financial incentive to use TVH versus --
A. They would have a lower co-pay or something like that.
Q. And so is the idea that facilities like a St. Luke's or Saint Al's would be either at a lower tier or just not part of the network at all for that type of plan?
A. I don't really know, Counsel. I haven't pursued that with them. They just suggested there be a -- a different benefit in -- that would drive volumes to Treasure Valley.

Page Range: 67:24-68:03

Q. Are there currently any agreements with payers where TVH is reimbursed on a basis other than a fee for service?
A. I'm unaware of any risk sharing. I'm unaware of any, Counsel.

Page Range: 97:14-97:17

Q. Treasure Valley Hospital has been a very lucrative investment for its investors, has it not?
A. It's been a good investment.

Page Range: 132:04-132:06

Q. She didn't tell you how she was going to -- how she was going to do that?
A. No.

Page Range: 133:14-134:15

Q. BY MR. STEIN: Defendants' Exhibit 145 is marked JGH 00197. At the top of the first page -- I'm sorry -- 197 to 198. Do you recognize on the top of the first page is an E-mail you sent to Goran Dragolovic on October 4th, 2011?
A. Yes.
Q. This E-mail discusses a -- a meeting that you attended. Do you recall attending the meeting that is referenced in this E-mail?
A. Yes, I do.
Q. And what was the purpose of the meeting that is referenced in Exhibit 145?
A. Saint Al's was meeting and called the meeting. I was invited into the meeting at the start. I left after about a half hour. I put

some ideas on the table that were basically explained here.
Q. Who was in this meeting?
A. The Saltzer surgeons -- I think there were three or four -- Sally. I don't remember who else.
Q. Sally Jeffcoat?
A. Um-hum.
Do you remember anyone else from Saint Al's that was there?
There were a couple others there. I cannot identify them.

Page Range: 137:23-138:08

Q. And the second thing you say you discussed with people at the meeting is, "Rare opportunity for them to buy in now before center opens, explaining the advantages we talked about. I suggested I would anticipate a 50 to 60 percent return on investment in the first year of operation if we opened with Ors full or close to it."
And you're referring there to the Treasure Valley Surgery Center?
A. That's correct.

Page Range: 139:02-139:09

Q. And the reason that you had to know if they were going to go -- stay or go with St. Luke's is because if they went with St. Luke's your understanding was they wouldn't be sending any more cases to Treasure Valley Hospital, right?
A. I believe that's correct, if I understand your question.

Page Range: 140:04-140:14

You told the surgeons that they would have an opportunity to invest in a surgery center with potentially a 50 or 60 percent return if they didn't go with St. Luke's. Isn't that what you were conveying to them?
A. Yes.
Q. And if they did go with St. Luke's, they wouldn't be afforded that opportunity; is that right?
A. Again, very -- very preliminary discussions. But that was the suggestion, yes.

Page Range: 161:15-162:09

Q. Well, in your discussions with the Saltzer surgeons, did they express to you concern about losing referrals from the primary care physicians?
A. From -- from their partners?
A. Right. From their partners, if they didn't -- if the surgeons didn't move forward with the transaction with St. Luke's?
A. Yes.
Q. And did you -- did you say anything to them in order to ensure they that they would continue to have enough volume to do surgeries even if they didn't affiliate -- or even if they

left Saltzer, stayed with Treasure Valley Hospital?
A. I've already testified today that Sally Jeffcoat and I had a discussion about that very point and that Sally had assured me that there would be support from the Saint Al's doctors. That's all I ever told them.