



10013237

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

SEC Mail Processing  
Section

JUN 28 2010

**FORM 11-K**

Washington, DC  
110

**ANNUAL REPORT PURSUANT TO  
SECTION 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

(Mark One)

**ANNUAL REPORT PURSUANT TO SECTION 15(D) OF THE SECURITIES  
EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2009

OR

**TRANSITION REPORT PURSUANT TO SECTION 15(D) OF THE SECURITIES  
EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 001-32749

A. Full title of the plan and the address of the plan, if different from that of the issuer named below:

**Fresenius Medical Care North America 401(k) Savings Plan**

920 Winter Street  
Waltham, MA 02451-1457

B. Name of issuer of the securities held pursuant to the plan and the address of its principal executive office:

**Fresenius Medical Care AG & Co. KGaA**

Else-Kröner Straße 1  
61352 Bad Homburg, v.d. H. Germany

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

FINANCIAL STATEMENTS AND SUPPLEMENTAL SCHEDULE  
AND INDEPENDENT AUDITORS' REPORT

INDEX

	<u>Page</u>
FINANCIAL STATEMENTS:	
Report of Independent Registered Public Accounting Firm	1 – 2
Statement of Net Assets Available for Benefits as of December 31, 2009 and 2008	3
Statement of Changes in Net Assets Available for Benefits for the year ended December 31, 2009	4
Notes to Financial Statements	5 – 14
SUPPLEMENTAL SCHEDULE:	
Schedule of Assets Held for Investment Purposes as of December 31, 2009	15 – 26
SIGNATURES:	
Signatures	27
CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM:	
Exhibit Index	28
Exhibit 29 – Consent of Walsh, Jastrem & Browne, LLP	29

**FRESENIUS MEDICAL CARE  
NORTH AMERICA 401(k) SAVINGS PLAN**

**FINANCIAL STATEMENTS  
AND SUPPLEMENTAL SCHEDULE**

**DECEMBER 31, 2009 and 2008**

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

FINANCIAL STATEMENTS AND SUPPLEMENTAL SCHEDULE  
AND INDEPENDENT AUDITORS' REPORT

INDEX

	<u>Page</u>
FINANCIAL STATEMENTS:	
Report of Independent Registered Public Accounting Firm	1 - 2
Statement of Net Assets Available for Benefits as of December 31, 2009 and 2008	3
Statement of Changes in Net Assets Available for Benefits for the year ended December 31, 2009	4
Notes to Financial Statements	5-14
SUPPLEMENTAL SCHEDULE:	
Schedule of Assets Held for Investment Purposes as of December 31, 2009	15 - 26



Walsh, Jastrem & Browne, LLP

Certified  
Public Accountants  
& Consultants

One Liberty Square  
Boston, MA 02109  
617 227 3333  
617 227 5430 Fax  
www.wjbcpas.com

## **REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Administrative Committee of  
the Fresenius Medical Care North America 401(k) Savings Plan

We have audited the accompanying statements of net assets available for benefits of Fresenius Medical Care North America 401(k) Savings Plan (the "Plan") as of December 31, 2009 and 2008, and the related statement of changes in net assets available for benefits for the year ended December 31, 2009. These financial statements are the responsibility of the Plan's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Plan's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for benefits of the Plan as of December 31, 2009 and 2008, and the changes in its net assets available for benefits for the year ended December 31, 2009, in conformity with accounting principles generally accepted in the United States of America.



Our audits were performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedule of assets held for investment purposes as of December 31, 2009 is presented for the purpose of additional analysis and is not a required part of the basic financial statements but is supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. The supplemental schedule is the responsibility of the Plan's management. The supplemental schedule has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

*Walsh, Jastrem & Browne, LLP*

WALSH, JASTREM & BROWNE, LLP  
Boston, Massachusetts  
June 25, 2010

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

STATEMENT OF NET ASSETS AVAILABLE FOR BENEFITS

DECEMBER 31, 2009 AND 2008

ASSETS:	<u>2009</u>	<u>2008</u>
Investments, at fair value -		
Mutual Funds	\$ 585,922,679	\$ 405,693,843
Collective Investment Trusts	246,087,215	225,409,508
Fresenius Medical Care AG - shares	66,466,800	55,671,645
Common Stock	2,223,734	673,889
Corporate Bonds	172,538	2,370
Loans to participants	37,592,759	33,247,497
	<hr/>	<hr/>
Total investments	938,465,725	720,698,752
Cash	2,170,295	1,604,408
Contributions receivable - participants	3,014,029	4,620,087
Contributions receivable - employer	18,179,723	16,989,507
Receivable for investments sold	66,626	19,614
Interest receivable	524	2,857
	<hr/>	<hr/>
Total assets	961,896,922	743,935,225
LIABILITIES:		
Accrued administrative expenses	116,006	146,340
Payable for investments purchased	68,735	92,695
	<hr/>	<hr/>
Total liabilities	184,741	239,035
NET ASSETS AVAILABLE FOR BENEFITS AT FAIR VALUE	961,712,181	743,696,190
Adjustments from fair value to contract value (for interest in a common collective trust) related to fully benefit-responsive investment contracts	2,310,947	7,196,687
	<hr/>	<hr/>
NET ASSETS AVAILABLE FOR BENEFITS	\$ <u>964,023,128</u>	\$ <u>750,892,877</u>

See accompanying notes to financial statements.

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN  
STATEMENT OF CHANGES IN NET ASSETS AVAILABLE FOR BENEFITS  
YEAR ENDED DECEMBER 31, 2009

ADDITIONS:

Participant contributions -		
Salary deferrals	\$	83,755,341
Rollovers		3,445,819
Employer contributions -		
Matching		27,984,514
Profit sharing		14,451,434
Defined contribution		2,661,577
Dividend and interest income		14,867,250
Net realized and unrealized appreciation in value of investments		<u>127,604,485</u>
Total additions		<u>274,770,420</u>

DEDUCTIONS:

Benefits paid to participants		61,058,986
Administrative expenses		<u>581,183</u>
Total deductions		<u>61,640,169</u>

NET ADDITIONS 213,130,251

NET ASSETS AVAILABLE FOR BENEFITS,  
BEGINNING OF YEAR 750,892,877

NET ASSETS AVAILABLE FOR BENEFITS,  
END OF YEAR \$ 964,023,128

See accompanying notes to financial statements.



# FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

## NOTES TO FINANCIAL STATEMENTS

### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization - The Fresenius Medical Care North America 401(k) Savings Plan (the Plan) is sponsored by National Medical Care, Inc. d/b/a Fresenius Medical Care North America (the Company) for the benefit of the employees of the Company and employees of entities owned or controlled by the Company. The Company is a provider of dialysis products and services.

The administration of the Plan is the responsibility of the Administrative Committee, appointed by the Company's Board of Directors. The trustee of the Plan is Fidelity Management Trust Company, which holds, manages and invests the Plan's assets and provides recordkeeping services for the Plan.

Method of Accounting - The accompanying financial statements have been prepared using the accrual method of accounting.

Investments - The Plan's investments are stated at fair value (see Note 3). Shares of mutual funds are valued at quoted market prices, which represent the net asset value of the shares held by the Plan at year end. Investments in collective investment trusts are stated at fair value, as determined by the issuer of the collective investment trusts based on the fair value of the underlying investments. Collective investment trusts with underlying investments in investment contracts are valued at the fair value of the underlying investments and then adjusted by the issuer to contract value. The Plan's investment in shares of Fresenius Medical Care AG (the parent company of the Plan sponsor), which trade on the New York Stock Exchange in the form of American Depositary Receipts (ADRs), are valued at the closing market price on the last business day of the Plan year. Common stocks and corporate bonds are valued at end of year quoted market prices. Loans to participants are valued at cost, which approximates fair value. Any unrealized appreciation or depreciation in value of investments is reflected in the statement of changes in net assets available for benefits.

The Fidelity Managed Income Portfolio II (the "Portfolio") is a stable value fund that is an open-end collective investment trust dedicated exclusively to the management of assets of defined contribution plans. The Portfolio's investment objective is to seek preservation of capital and a competitive level of income over time. To achieve its investment objective, the Portfolio invests in underlying assets (typically fixed income securities or bond funds and may include derivative instruments such as futures contracts and swap agreements) and enters into a "wrapper" contract issued by a third party. Participants may ordinarily direct the withdrawal or transfer of all or a portion of their investment at contract value. Contract value represents contributions made to the fund, plus earnings, less participant withdrawals.

## FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

### NOTES TO FINANCIAL STATEMENTS

#### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

As required under U.S. generally accepted accounting principles, the statements of net assets available for benefits presents the collective investment trusts with underlying investments in investment contracts at fair value as well as an additional line item showing an adjustment of fully benefit-responsive investment contracts from fair value to contract value. The statement of changes in net assets available for benefits with respect to such contracts is presented on a contract value basis. Contract value is the relative measurement attributable to fully benefit-responsive investment contracts because contract value is the amount participants would ordinarily receive if they were to initiate permitted transactions under the terms of the Plan.

Purchases and sales of securities are recorded on a trade-date basis. Dividend income is recorded on the ex-dividend date.

Payment of Benefits - Benefits are recorded when paid.

Administrative Expenses – Certain administrative costs of the Plan have been absorbed by the Company.

Unit Values – Individual participant accounts for investments in collective investment trusts are maintained on a unit value basis. Participants do not have beneficial ownership in the specific underlying securities or other assets in the collective investment trusts, but do have an interest therein represented by units valued daily. The collective investment trusts earn dividends and interest which are automatically reinvested in additional units. Generally, contributions to and withdrawal payments from collective investment trusts are converted to units by dividing the amounts of such transactions by the unit values as last determined, and the participants' accounts are charged or credited with the number of units properly attributable to each participant.

Estimates - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the plan administrator to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results may differ from those estimates.

# FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

## NOTES TO FINANCIAL STATEMENTS

### 2. DESCRIPTION OF THE PLAN

The following description of the Plan provides only general information. Special provisions may apply for certain participants who joined the Plan pursuant to Company acquisitions. Participants should refer to the Plan document for a complete description of the Plan's provisions.

General - The Plan is a defined contribution plan covering all employees meeting the eligibility requirements of the Plan. The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA). A summary description of the Plan is available from the Plan Administrator.

Eligibility - An employee becomes eligible for participation in the Plan on the first day of the month following the completion of ninety days of service, subject to further limitations, as described in the Plan document. Eligible employees hired after January 1, 2007 are automatically enrolled in the Plan at 3% of eligible earnings unless the employees opt not to participate.

Participant Accounts - Each participant's account is credited with the participant's and Company's contributions and allocations of Plan earnings. Participant and employer contributions are invested as directed by the participants into one or more designated investment options offered by the Plan. Additionally, participants have the option to establish a plan level brokerage account to allow the opportunity to invest in a wide array of securities. Participants may change their investment selections at any time. Allocations of Plan earnings are based on participant account balances. The benefit to which a participant is entitled is the benefit that can be provided from the participant's vested account.

Participant and Company Matching Contributions - Each participant may contribute from 1% to 75% of his or her eligible earnings on a pre-tax basis, subject to certain limitations. The Company makes matching contributions to the Plan at an amount equal to 50% of the first 6% of eligible employee earnings, subject to certain limitations. Company matching contributions commence for participants who have completed one year of service.

Participants are at all times 100% vested to the extent of their own contributions. Active participants since January 1, 2007, vest in the employer matching contributions according to the following schedule:

# FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

## NOTES TO FINANCIAL STATEMENTS

### 2. DESCRIPTION OF THE PLAN (continued)

<u>Period of Service</u>	<u>Percentage Vested</u>
Fewer than 1 year	0%
1 but fewer than 2 years	20%
2 but fewer than 3 years	40%
3 but fewer than 4 years	60%
4 but fewer than 5 years	80%
5 years or more	100%

Participants terminated prior to January 1, 2007 vest in the employer matching contributions according to the vesting schedule in effect at the time of termination.

Company Profit Sharing and Defined Contribution – The Company may make discretionary profit sharing contributions to the Plan for the benefit of all eligible participants. Employees who have completed a year of service for the plan year for which the contribution relates and are employed by the Company on the last day of the plan year for which the contribution relates are eligible to participate in this component of the plan. Certain employees covered under collective bargaining agreements are not eligible to participate. Any discretionary profit sharing contributions are allocated to eligible participants based on compensation, with participants having ten years or more of service as of January 1, 2002 entitled to a higher profit sharing allocation. Participants are immediately 100% vested in all discretionary profit sharing contributions.

The Company makes payments to the Plan referred to as a “defined contribution” for the benefit of all eligible participants. Employees satisfying all of the following requirements are eligible to participate in this component of the Plan: (i) the employee was employed by the Company as of March 9, 2002; (ii) the employee was a participant in the Fresenius Medical Care North America Retirement Plan (“Pension Plan”) on March 9, 2002, and (iii) the employee had completed ten years of pension service as of March 9, 2002. Employees eligible to participate will only receive a defined contribution allocation for a given plan year after the completion of 15 years of pension service as long as the employee is employed by the Company on the last day of the plan year for which the contribution relates. Participants are immediately 100% vested in such contributions.

## FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

### NOTES TO FINANCIAL STATEMENTS

#### 2. DESCRIPTION OF THE PLAN (continued)

The amount of the defined contribution for each eligible participant is actuarially determined and is principally based on the participant's length of service, level of compensation, projected benefit from the Pension Plan, and the projected benefit from the profit sharing component of this Plan. Certain actuarial assumptions relative to annual compensation percentage increases, annual investment returns and anticipated profit sharing funding levels are made in determining the defined contribution funding amounts.

Forfeitures - At December 31, 2009, forfeited account balances totaled \$25,966. Forfeitures are used to reduce Company contributions and/or offset administrative expenses of the Plan. During the year ended December 31, 2009, the Company used \$550,000 of forfeited account balances to reduce Company matching contributions and used \$111,790 of forfeited account balances to pay administrative expenses of the Plan.

Distributions - At termination of employment, the participant is entitled to withdraw his or her entire account balance from the Plan. Any remaining unpaid loan balances at termination of employment are treated as distributions. Terminated employees with account balances of less than \$5,000 must withdraw their account balances from the Plan. Terminated employees with participant account balances greater than \$5,000 may elect to leave their funds in the Plan until age 70 1/2. The Plan allows participants with account balances greater than \$5,000 to elect payouts in the form of an annuity over a period not to exceed 25 years. In certain instances, prior to termination, participants may (subject to approval by the Administrative Committee) withdraw account balances to defray financial obligations.

Plan Termination - Although the Company expects to continue the Plan as a permanent, tax-deferred, savings program for the exclusive benefit of Company employees, the continuance of the Plan is not assumed by the Company as a contractual obligation. The Company reserves the right to amend or terminate the Plan subject to the provisions set forth by ERISA. If the Company terminates the Plan, accounts will be valued as of the termination date and distributed in a lump sum payment to each participant, subject to ERISA and/or other legal requirements that may exist at that time.

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

NOTES TO FINANCIAL STATEMENTS

3. FAIR VALUE MEASUREMENTS

Under U.S. generally accepted accounting principles (“GAAP”) fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. A fair value hierarchy has been established under GAAP that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are as follows:

- Level 1            Observable inputs based on unadjusted quoted prices for identical assets or liabilities in active markets that the Plan has the ability to access.
- Level 2            Inputs for assets or liabilities, other than quoted prices included in Level 1, which are either directly or indirectly observable as of the measurement date.
- Level 3            Unobservable inputs where there is little or no market activity for the assets or liabilities. These inputs reflect Plan management’s assumptions of the data market participants would use in pricing an asset or liability, based on the best information available in the circumstances.

The following tables set forth by level, within the fair value hierarchy, the Plan’s investments at fair value as of December 31, 2009 and 2008:

	December 31, 2009			
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Mutual Funds	\$ 585,922,679	\$ -	\$ -	\$ 585,922,679
Collective				
Investment Trusts	-	246,087,215	-	246,087,215
Fresenius Medical				
Care AG - Shares	66,466,800	-	-	66,466,800
Common Stock	2,223,734	-	-	2,223,734
Corporate Bonds	-	172,538	-	172,538
Loans to				
Participants	-	-	37,592,759	37,592,759
Total Investments	<u>\$ 654,613,213</u>	<u>\$ 246,259,753</u>	<u>\$ 37,592,759</u>	<u>\$ 938,465,725</u>

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

NOTES TO FINANCIAL STATEMENTS

3. FAIR VALUE MEASUREMENTS (continued)

	December 31, 2008			
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Mutual Funds	\$ 405,693,843	\$ -	\$ -	\$ 405,693,843
Collective				
Investment Trusts	-	225,409,508	-	225,409,508
Fresenius Medical				
Care AG - Shares	55,671,645	-	-	55,671,645
Common Stock	673,889	-	-	673,889
Corporate Bond	-	2,370	-	2,370
Loans to				
Participants	-	-	33,247,497	33,247,497
Total Investments	<u>\$462,039,377</u>	<u>\$225,411,878</u>	<u>\$33,247,497</u>	<u>\$720,698,752</u>

The following table sets forth the changes in the fair value of the Plan's Level 3 assets (Loans to participants) for the year ended December 31, 2009:

Balance, January 1, 2009	\$ 33,247,497
Loan withdrawals	20,408,400
Loan repayments	(13,725,374)
Benefit payments and deemed distributions	(2,337,764)
Balance, December 31, 2009	<u>\$ 37,592,759</u>

4. LOANS TO PARTICIPANTS

Participants may at any time borrow up to 50% (but not more than \$50,000) of their vested account balances with a minimum loan amount of \$500. Such loans are secured by the participants' account balances. The loans bear a reasonable rate of interest and must be repaid in equal payments in five years or less. A longer repayment period may be allowed for loans granted to purchase a primary residence.

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

NOTES TO FINANCIAL STATEMENTS

5. INVESTMENTS

The following presents investments at December 31, 2009 and 2008 representing 5% or more of Plan net assets:

	<u>2009</u>		<u>2008</u>	
Mutual Funds -				
Fidelity Contrafund	\$132,728,096	*	\$98,228,335	*
Neuberger & Berman Genesis Trust	52,840,920	*	41,458,476	*
Oakmark Equity and Income Fund	118,401,211	*	97,833,849	*
Fidelity U.S. Bond Index Fund	52,336,617	*	45,093,340	*
TCW Dividend Focused Fund	62,712,032	*	44,295,257	*
Collective Investment Trusts -				
Fidelity Managed Income Portfolio II	183,932,797	*	177,344,071	*
Fidelity U.S. Equity Index Pool	62,154,418	*	48,065,437	*
Other -				
Fresenius Medical Care AG	66,466,800	*	55,671,645	*

\* - Participant directed

For the year ended December 31, 2009, the Plan's investments (including gains and losses on investments bought and sold, as well as held during the year) appreciated in value by \$127,604,485 as follows:

	<u>Net Appreciation</u>
Mutual funds	\$ 106,643,599
Collective investment trusts	13,069,407
Fresenius Medical Care AG – shares	7,567,245
Common Stock	316,686
Corporate Bonds	<u>7,548</u>
	<u>\$ 127,604,485</u>



FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

NOTES TO FINANCIAL STATEMENTS

6. RELATED PARTY TRANSACTIONS

The Plan invests in mutual funds and collective investment trusts that are managed by Fidelity Investments, who also serves as trustee of the Plan and custodian for the investments held by the Plan. The Plan also invests in shares of the Plan Sponsor. Transactions in such investments are considered party-in-interest transactions as defined by ERISA, but are exempt from the prohibited transaction rules. Fees paid by the Plan to Fidelity Investments for custodial and recordkeeping services amounted to \$532,931 for the year ended December 31, 2009 and is included in administrative expenses in the statement of changes in net assets available for benefits.

7. RECONCILIATION OF FINANCIAL STATEMENTS TO FORM 5500

The following is a reconciliation of amounts per the financial statements to Form 5500 for the year ended December 31, 2009 and 2008:

	<u>2009</u>	<u>2008</u>
Net assets available for benefits per the financial statements	\$ 964,023,128	\$ 750,892,877
Adjustment from contract value to fair value (for interest in common collective trust) related to fully benefit-responsive investment contracts	<u>(2,310,947)</u>	<u>(7,196,687)</u>
Net assets available for benefits per Form 5500	\$ <u>961,712,181</u>	\$ <u>743,696,190</u>
Total additions in net assets per the financial statements	\$ 213,130,251	
Adjustment from contract value to fair value (for interest in common collective trust) related to fully benefit-responsive investment contracts		<u>4,885,740</u>
Total additions in net assets per Form 5500		\$ <u>218,015,991</u>

## FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

### NOTES TO FINANCIAL STATEMENTS

#### 8. TAX STATUS OF THE PLAN

The Internal Revenue Service, by letter dated December 15, 2009 determined that the Plan constitutes a qualified trust under Section 401(a) of the Internal Revenue Code (the "Code") and is, therefore, considered to be exempt from Federal income taxes under the provisions of Section 501(a). The Plan has been amended since receiving the determination letter, however, the Plan administrator and the Plan's tax counsel believe that the Plan is designed and is currently being operated in compliance with the applicable requirements of the Code. Accordingly, no provision for income taxes has been included in the Plan's financial statements.

#### 9. RISKS AND UNCERTAINTIES

The Plan provides for various investment options in any combination of mutual funds, collective investment trusts and shares of Fresenius Medical Care AG. Additionally, Plan participants can invest in a wide array of securities through a plan level brokerage account. Such investments are exposed to various risks, such as interest rate, market fluctuations and credit risks. Due to such risks, it is at least reasonably possible that changes in market values, interest rates or other factors in the near term would materially affect participants' account balances and the amounts reported in the statement of net assets available for benefits and the statement of changes in net assets available for benefits.

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
	Mutual Funds -			
*	Fidelity Cash Reserves	638,500 Shares	** \$	638,500
*	Fidelity Contrafund	2,277,421 Shares	**	132,728,096
*	Fidelity Diversified International Fund	1,520,655 Shares	**	42,578,343
*	Fidelity U.S. Bond Index Fund	4,732,063 Shares	**	52,336,617
	Neuberger & Berman Genesis Trust	1,346,265 Shares	**	52,840,920
	Columbia Small Cap Core Fund - Class Z	665,260 Shares	**	8,242,574
	American Century Real Estate Fund - Institutional Class	540,192 Shares	**	7,805,769
	MainStay High Yield Corporate Bond Fund - Class A	1,799,700 Shares	**	10,168,308
	Oakmark Equity and Income Fund - Class I	4,635,913 Shares	**	118,401,211
	Hotchkis and Wiley Mid-Cap Value Fund - Class I	1,313,385 Shares	**	23,509,584
	TCW Dividend Focused Fund	6,937,172 Shares	**	62,712,032
	Vanguard Target Retirement Inc.	184,935 Shares	**	1,958,466
	Vanguard Target Retirement 2005	85,902 Shares	**	943,207
	Vanguard Target Retirement 2010	208,127 Shares	**	4,270,760
	Vanguard Target Retirement 2015	757,931 Shares	**	8,572,195
	Vanguard Target Retirement 2020	489,209 Shares	**	9,764,602
	Vanguard Target Retirement 2025	929,546 Shares	**	10,522,466
	Vanguard Target Retirement 2030	501,725 Shares	**	9,688,304
	Vanguard Target Retirement 2035	900,032 Shares	**	10,458,377
	Vanguard Target Retirement 2040	393,968 Shares	**	7,505,104
	Vanguard Target Retirement 2045	491,796 Shares	**	5,911,388
	Vanguard Target Retirement 2050	191,630 Shares	**	3,662,045
	Direxion 10 Year Note Bear 2.5X Inv	3,146 Shares	**	35,195
	FBR American Gas Index	197 Shares	**	3,295
	FMI Provident Trust Strategy Fund	1,443 Shares	**	10,970
	FMI Large Cap Fund	2,919 Shares	**	41,275
	Janus Mid Cap Value Investment Shares	4,047 Shares	**	80,125
	Janus Balanced	2,030 Shares	**	49,815
	Janus Short Term Bond	8,914 Shares	**	27,366

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
	Mutual Funds -			
	Allianz NFJ Dividend Value Fund - Class D	317 Shares	**	3,298
	Allianz NACM Flex Cap Value - Class D	376 Shares	**	3,379
	Artio International Equity Fund II - Class A	1,378 Shares	**	16,140
	Artio Global High Income Fund - Class A	315 Shares	**	3,322
	Baron Small Cap Fund	1,819 Shares	**	35,028
	Buffalo Small Cap Growth	582 Shares	**	13,091
	Gabelli Utilities Fund	164 Shares	**	1,060
	Gamco Gold Fund	129 Shares	**	3,877
	Heartland Value Plus	1,473 Shares	**	34,499
	Permanent Portfolio Fund Inc.	546 Shares	**	21,130
	Precious Metals Ultra Sec Pro Inv	280 Shares	**	8,880
	Royce Value Plus Investment Class	1,912 Shares	**	21,493
	Sextant International Fund	791 Shares	**	11,300
	Thornburg Inv Income Builder Fund - Class C	281 Shares	**	5,011
	Tocqueville Gold Fund	70 Shares	**	4,013
	Wasatch 1st Source Equity Fund	3,260 Shares	**	41,342
	Westcore Plus Bond Fund	5,438 Shares	**	56,661
	Enbridge Energy Partners	317 Shares	**	17,001
	Enterprise Group Holdings	75 Shares	**	2,938
*	Fidelity Canada	14 Shares	**	696
*	Fidelity Nordic	78 Shares	**	2,144
*	Fidelity Capital & Income	406 Shares	**	3,497
*	Fidelity Structured Large Cap Value	330 Shares	**	3,212
*	Fidelity Equity Income	82 Shares	**	3,224
*	Fidelity Equity Income II	197 Shares	**	3,213
*	Fidelity High Income	398 Shares	**	3,370
*	Fidelity Focused High Income Fund	1,613 Shares	**	14,794
*	Fidelity Global Commodity Stock Fund	127 Shares	**	1,861
*	Fidelity Four-In-One Index	2,660 Shares	**	64,532

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
	Mutual Funds (continued) -			
*	Fidelity Low Priced Stock	165 Shares	**	5,263
*	Fidelity OTC Portfolio	654 Shares	**	29,902
*	Fidelity Dividend Growth	153 Shares	**	3,626
*	Fidelity Small Cap Value	437 Shares	**	5,536
*	Fidelity Blue Chip Value	321 Shares	**	3,194
*	Fidelity Real Estate Income	74 Shares	**	685
*	Fidelity Select Gold	83 Shares	**	3,558
				585,922,679
	Collective Investment Trusts -			
*	Fidelity Managed Income Portfolio II	186,243,744 Units	**	183,932,797
*	Fidelity U.S. Equity Index Pool	1,630,066 Units	**	62,154,418
				246,087,215
*	Fresenius Medical Care AG	1,253,854 Shares (ADRs)	**	66,466,800
	Common Stock -			
	Consolidaed Water Co.	3,000 Shares	**	42,870
	Marvell Technology Group Ltd.	502 Shares	**	10,416
	UBS AG	100 Shares	**	1,551
	Royal Carribean Cruises Limited	500 Shares	**	12,640
	Xoma Ltd.	10,030 Shares	**	7,011
	Weatherford International Ltd	305 Shares	**	5,463
	Agnico Eagle Mines Limited	137 Shares	**	7,421
	Altria Group Inc.	2,150 Shares	**	42,205
	American International Group Inc.	2 Shares	**	60
	American Water Works Company, Inc.	159 Shares	**	3,570

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
Common Stock (continued) -				
	Apple Computer Inc.	55 Shares	**	11,590
	BP PLC	274 Shares	**	15,861
	Bank of America Corp.	2,385 Shares	**	35,921
	Boeing Company	106 Shares	**	5,717
	Bucyrus International Inc.	310 Shares	**	17,477
	Elbit Systems Ltd.	70 Shares	**	4,553
	AES Corp.	30 Shares	**	399
	Celgene Corporation	100 Shares	**	5,568
	Chesapeake Energy Corporation	965 Shares	**	24,975
	AT&T	15 Shares	**	420
	Coca Cola Company	50 Shares	**	2,870
	Abbott Laboratories	5 Shares	**	246
	Conocophillips NFS LLC	381 Shares	**	19,449
	Achillion Pharmaceuticals Inc.	2,945 Shares	**	9,159
	Deutsche Bank AG	1,093 Shares	**	28,899
	Activision Blizzard Inc.	507 Shares	**	5,633
	Advanced Cell Technology Inc.	5,000 Shares	**	460
	Adventrx Pharmaceuticals Inc.	185,000 Shares	**	64,750
	El Paso Corporation	511 Shares	**	5,023
	Alaska Communication Systems	980 Shares	**	7,820
	Alcoa Inc.	1,452 Shares	**	23,400
	Alexco Resource Corp.	500 Shares	**	1,880
	Exxon Mobil Corporation	9 Shares	**	628
	Allscripts Healthcare Solutions Inc.	200 Shares	**	4,046
	Amgen Inc.	400 Shares	**	22,628
	Ford Motor Company	2,135 Shares	**	21,350
	Freedom Environmental Services	84 Shares	**	13
	Freeport McMoran Copper & Gold	40 Shares	**	3,212
	General Electric Company	3,240 Shares	**	49,019

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
Common Stock (continued) -				
	Goldcorp Inc.	219 Shares	**	8,645
	Goldman Sachs Group Inc.	298 Shares	**	50,246
	Hecla Mining Company	4,775 Shares	**	29,510
	Angiotech Pharmaceuticals Inc.	200 Shares	**	248
	Antigenics Inc.	1,409 Shares	**	902
	iShares FTSE/Xinhua China 25 Index	352 Shares	**	14,874
	Appolo Investments Corp.	54 Shares	**	512
	Arvinmeritor Inc.	250 Shares	**	2,795
	Atlantis Technology Group	1,145,000 Shares	**	8,015
	Johnson & Johnson	1,408 Shares	**	90,666
	Avanir Pharmaceuticals	1,000 Shares	**	1,900
	Linn Energy LLC	200 Shares	**	5,576
	Bank of New York Mellon	1,000 Shares	**	27,970
	Lowes Companies	50 Shares	**	1,169
	Barclays Bank PLC	70 Shares	**	3,206
	McDonalds Corp.	86 Shares	**	5,381
	Barrett Business Services Inc.	6 Shares	**	72
	Biosante Pharmaceuticals Inc.	626 Shares	**	908
	Bldrs Index Fds Emerging Markets 50 ADR	64 Shares	**	2,841
	Blockbuster Inc.	50 Shares	**	34
	Natural Gas Services Group Inc.	300 Shares	**	5,655
	Bristol Myers Squibb	540 Shares	**	13,635
	Brocade Communications Systems	505 Shares	**	3,853
	Novagold Resources	600 Shares	**	3,678
	Nucor Corporation	100 Shares	**	4,665
	Nuveen Quality Preferred Income Fund 2	684 Shares	**	4,958
	Burlington Northern Santa Fe Corp.	1 Shares	**	100
	Pengrowth Energy Trust	6,000 Shares	**	57,780
	Calgon Carbon Corp.	3,000 Shares	**	41,700

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
	Common Stock (continued) -			
	Petroleo Brasileiro SA Petrobras	125 Shares	**	5,962
	Pfizer Inc.	546 Shares	**	9,930
	Portec Rail Products Inc.	155 Shares	**	1,665
	Campbell Soup Co.	4 Shares	**	138
	Proctor & Gamble Company	127 Shares	**	7,676
	Proshares Ultra Short 500	600 Shares	**	21,030
	Proshares Ultra Short Lehman	985 Shares	**	49,132
	Proshares Ultra Short Real Estate	300 Shares	**	2,250
	Capstone Turbine Corp.	100 Shares	**	128
	Cell Therapeutics Inc.	1,506 Shares	**	1,717
	China Mobile Hong Kong Ltd	333 Shares	**	15,461
	China Unicom Ltd	204 Shares	**	2,674
	Seattle Genetics Inc.	3,500 Shares	**	35,560
	Sector SPDR Technology Trust	41 Shares	**	941
	Sirius XM Radio Inc.	4,355 Shares	**	2,613
	Chunghwa Telecom Co Ltd.	500 Shares	**	9,285
	Ciena Corp.	1,205 Shares	**	13,062
	Stryker Corporation	70 Shares	**	3,533
	Citigroup Inc.	3,133 Shares	**	10,370
	Toronto Dominion Bank	235 Shares	**	14,753
	Claymore Exchange Traded Fund Tst 2	100 Shares	**	2,522
	Clean Energy Fuels Corp.	505 Shares	**	7,782
	Wells Fargo & Company	100 Shares	**	2,699
	Coach Inc.	90 Shares	**	3,288
	Cord Blood America Inc.	700,000 Shares	**	8,400
	Corrections Corp.	100 Shares	**	2,455
	Cypress Semiconductor Corp.	200 Shares	**	2,112
	Dana Holding Corp.	110 Shares	**	1,192
	Darden Restaurants	60 Shares	**	2,104



FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
Common Stock (continued) -				
	Delta Air Lines Inc.	100 Shares	**	1,138
	Denison Mines Corp.	2,500 Shares	**	3,175
	Devon Energy Corp.	146 Shares	**	10,715
	Direxion ETF Daily Financial Bear 3X	545 Shares	**	10,589
	Direxion ETF Small Cap Bear 3X	31 Shares	**	306
	Walt Disney Co.	100 Shares	**	3,225
	DR Reddys Labs Ltd.	1,800 Shares	**	43,578
	Dow Chemical Co.	200 Shares	**	5,526
	Duoyuan Global Water Inc.	630 Shares	**	22,541
	Dyax Corp.	6,000 Shares	**	20,340
	E Trade Group Inc.	2,500 Shares	**	4,400
	Ebay Inc.	300 Shares	**	7,059
	Electronics Arts	507 Shares	**	8,999
	Emerson Electric Co.	10 Shares	**	437
	Endeavour Silver Corp.	1,232 Shares	**	4,484
	Energy Conversion Devices Inc.	200 Shares	**	2,114
	Evergreen Solar Inc.	50 Shares	**	76
	Exelixis Inc.	2,000 Shares	**	14,740
	Freddie Mac	50 Shares	**	74
	Fannie Mae	50 Shares	**	59
	Fifth Third Bancorp	1,010 Shares	**	9,848
	First Israel Fund Inc.	200 Shares	**	3,028
	First Niagra Financial Group Inc.	1,000 Shares	**	13,910
	Fortinet Inc.	100 Shares	**	1,757
	Frontier Communications Corp.	1,290 Shares	**	10,075
	GTC Biotherapeutics Inc.	1,400 Shares	**	1,050
	Gen Vec Inc.	48,900 Shares	**	58,680
	Geron Corp.	2,500 Shares	**	13,875
	Google Inc.	9 Shares	**	5,580

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
Common Stock (continued) -				
	Greenhaven Continuous Commodity	72 Shares	**	1,895
	Harley Davidson Inc.	200 Shares	**	5,040
	Heckmann Corp.	505 Shares	**	2,520
	Hewlett Packard Co.	2 Shares	**	99
	Himax Technologies Inc.	345 Shares	**	955
	Home Depot Inc.	101 Shares	**	2,916
	Huntington Bancshares Inc.	1,510 Shares	**	5,512
	Illinois Tool Works	40 Shares	**	1,920
	Intel Corp.	700 Shares	**	14,295
	International Paper Co.	50 Shares	**	1,346
	iShares Inc. MSCI Brazil Free Index	12 Shares	**	920
	iShares Inc. MSCI Bric Index	9 Shares	**	415
	iShares Cohen & Steers Realty Majors	53 Shares	**	2,787
	Isis Pharmaceuticals	90 Shares	**	1,000
	J.P. Morgan Chase & Co.	20 Shares	**	835
	JetBlue Airways Corp.	80 Shares	**	436
	Johnson Controls Inc.	100 Shares	**	2,724
	Juniper Networks Inc.	505 Shares	**	13,468
	Keycorp New	2,010 Shares	**	11,157
	Kraft Foods Inc.	10 Shares	**	275
	Labopharm Inc.	29,025 Shares	**	60,372
	Las Vegas Sands Corp.	3,803 Shares	**	56,817
	Eli Lilly & Co.	550 Shares	**	19,641
	MEMC Electronics Materials Inc.	20 Shares	**	272
	Market Vectors ETF Gold Miners	571 Shares	**	26,393
	Market Vectors ETF Russia	18 Shares	**	563
	Market Vectors ETF JR Gold Mines	1,205 Shares	**	31,017
	Market Vectors ETF Nuclear Energy	20 Shares	**	462
	Market Vectors ETF Coal	447 Shares	**	16,152

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
Common Stock (continued) -				
	Medco Health Solutions Inc.	3 Shares	**	192
	Medclean Technologies Inc.	698,000 Shares	**	20,940
	Medefile International Inc.	3,305,000 Shares	**	13,220
	Merck & Co. Inc.	13 Shares	**	479
	Metlife Inc.	100 Shares	**	3,535
	Microfluidics International Corp.	1,700 Shares	**	1,513
	Micromet Inc.	400 Shares	**	2,664
	Mobile Media Unlimited Holdings Inc.	25,000 Shares	**	1,050
	Motors Liquidation Co.	50 Shares	**	24
	NRG Energy Inc.	20 Shares	**	472
	NVE Corp. New	85 Shares	**	3,509
	Nestle SA Sponsored ADR	500 Shares	**	24,281
	Novavax Inc.	250 Shares	**	665
	Nstar	1,000 Shares	**	36,800
	Nvidia Corp.	350 Shares	**	6,538
	On Semiconductor Corp.	904 Shares	**	7,973
	Palm Inc.	40 Shares	**	401
	Pepsico Inc.	13 Shares	**	794
	Petroleum Development Corp.	100 Shares	**	1,821
	Pluristem Therapeutics Inc.	700 Shares	**	812
	Powershares India ETF	24 Shares	**	532
	Powershares Financial ETF	1,182 Shares	**	19,290
	Powershares ETF II	22 Shares	**	668
	Precision Castparts Corp.	60 Shares	**	6,624
	Procera Networks Inc.	30,000 Shares	**	13,200
	Proshares Ultra	1,067 Shares	**	59,912
	RXI Pharmaceuticals Corp.	212 Shares	**	971
	Range Resources Corp.	310 Shares	**	15,454
	Research In Motion Ltd.	100 Shares	**	6,754

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
Common Stock (continued) -				
	S & P 500 Depository Receipt	2 Shares	**	225
	SPDR Gold Shares	126 Shares	**	13,521
	SPDR Index S & P China ETF	7 Shares	**	504
	SPDR DJ Wilshire	16 Shares	**	1,337
	Satcon Technology Corp.	390 Shares	**	1,100
	Sector SPDR Industrial	10 Shares	**	286
	Selectica Inc.	3,045 Shares	**	700
	Sequenom Inc.	3,500 Shares	**	14,490
	Silver Wheaton Corp.	533 Shares	**	8,006
	Silvercorp Metals, Inc.	720 Shares	**	4,755
	Sociedad Quimica Minera De Chile SA	10 Shares	**	379
	Southwest Airlines Co.	25 Shares	**	286
	Sprint Corp.	1,000 Shares	**	3,660
	Stemcells Inc.	1,100 Shares	**	1,386
	Sterlite Industries India Ltd.	149 Shares	**	2,715
	Sunoco Inc.	1,027 Shares	**	26,795
	Suntech Power Holdings Co. Ltd.	10 Shares	**	166
	Talisman Energy Inc.	314 Shares	**	5,853
	Tenet Healthcare Corp.	503 Shares	**	2,711
	Teva Pharmaceutical Industries Ltd.	75 Shares	**	4,213
	Time Warner Inc.	4 Shares	**	105
	Unilever PLC	13 Shares	**	401
	US Gold Corp.	700 Shares	**	1,736
	United States Oil Fund	210 Shares	**	8,249
	United States Steel Corp.	300 Shares	**	16,536
	Vale SA ADR	500 Shares	**	14,515
	Vanguard International Equity Index FTSE ALL	6 Shares	**	499
	Vanguard International Equity Index FTSE	98 Shares	**	4,269
	Vanguard Natural Resources	1,000 Shares	**	22,070

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
Common Stock (continued) -				
	Verizon Communications	644 Shares	**	21,347
	Vical Inc.	5,000 Shares	**	16,450
	Vivus Inc.	300 Shares	**	2,760
	Wal-Mart Stores Inc.	1 Shares	**	71
	Western Refining Inc.	547 Shares	**	2,576
	Williams Companies Inc.	76 Shares	**	1,611
	Clayton Williams Energy Inc.	65 Shares	**	2,277
	Wisdomtree Emerging Markets	12 Shares	**	527
	Xcorporeal Inc.	1,900 Shares	**	97
	Yahoo Inc.	1,002 Shares	**	16,814
	Yamana Gold Inc.	1,814 Shares	**	20,643
	Zion Oil & Gas Inc.	501 Shares	**	3,582
	Ziopharm Oncology Inc.	250 Shares	**	740
				2,223,734
Corporate Bonds -				
	D R Horton, Inc.	3,000 Face	**	3,030
	International Lease Financial MTN	29,000 Face	**	26,645
	Regions Financial Corp.	20,000 Face	**	19,702
	SLM Corp. MTN	20,000 Face	**	18,040
	SLM Corp. MTN	40,000 Face	**	36,798
	SLM Corp.	20,000 Face	**	19,735
	Steel Dynamics, Inc.	3,000 Face	**	3,090
	Union Planters Corp. Sub. Notes	25,000 Face	**	24,856
	United Rentals North America Inc.	3,000 Face	**	2,992
	Zions Bancorporation Senior Notes	20,000 Face	**	17,650
				172,538

FRESENIUS MEDICAL CARE NORTH AMERICA 401(k) SAVINGS PLAN

I.D. NO. - 04-2835488

PLAN NO. - 002

FORM 5500, SCHEDULE H, PART IV, LINE 4i -  
SCHEDULE OF ASSETS HELD FOR INVESTMENT PURPOSES

DECEMBER 31, 2009

(a)	(b)	(c)	(d)	(e)
	<u>Identity of Issue</u>	<u>Description</u>	<u>Cost</u>	<u>Current Value</u>
*	Loans to Participants	interest range of 5.00% - 11.50%	-	<u>37,592,759</u>
	Total			\$ <u>938,465,725</u>

\* - denotes a party-in-interest as defined by ERISA


\*\* - participant directed

**SIGNATURES**

*The Plan.* Pursuant to the requirements of the Securities Exchange Act of 1934, the trustees (or other persons who administer the employee benefit plan) have duly caused this annual report to be signed on its behalf by the undersigned hereunto duly authorized.

Fresenius Medical Care North America  
401(k) Savings Plan

Date June 25, 2010

By:   
Brian Silva, Trustee

## EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description of Exhibit</u>	<u>Internal Page No.</u>	<u>Sequential Page No.</u>
23	Consent of Walsh, Jastrem & Browne, LLP	29	33





Walsh, Jastrem & Browne, LLP

Certified  
Public Accountants  
& Consultants

One Liberty Square  
Boston, MA 02109  
617 227 3333  
617 227 5430 Fax  
www.wjbcpas.com

### CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 (Registration No. 333-8686) of our report, dated June 25, 2010, relating to the financial statements and supplemental schedule of Fresenius Medical Care North America 401(k) Savings Plan included in this Annual Report on Form 11-K for the year ended December 31, 2009.

*Walsh, Jastrem & Browne, LLP*

WALSH, JASTREM & BROWNE, LLP  
Boston, Massachusetts  
June 25, 2010