

SETTLEMENT AGREEMENT

I PARTIES

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice (“United States”), the State of Michigan (“Michigan”), the State of Wisconsin (“Wisconsin”), Beacon Ambulance Service, Inc. a Wisconsin corporation (“Beacon”) and James LaFortune (“Relator”) (hereafter collectively referred to as “the Parties”)

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

- A. At all times relevant to this matter, Beacon was the owner of Beacon Ambulance Service providing transport to Medicare and Medicaid eligible patients to and from local hospitals in Michigan and Wisconsin.
- B. Relator James LaFortune is an individual resident of Michigan. On May 19, 2006, Relator filed a qui tam action in the United States District Court for the Western District of Wisconsin, captioned United States of America and State of Michigan ex rel. James LaFortune v. Beacon Ambulance Service, Inc., Civil Action No. 06-C0278 (hereinafter “the Civil Action”) From February 2002 to November 2005, Relator was an Emergency Medical Technician – Basic for Beacon.
- C. Relator, on behalf of the United States, contends that Beacon submitted or caused to be submitted claims for payment to the Medicare Program (Medicare), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg, and to the

Medicaid Program (Medicaid”) Title XIX of the Social Security Act of the 1965, 42 U.S.C. § 1396-1396v.

- D. Relator, on behalf of the United States, and the states of Michigan and Wisconsin, contends that they have certain civil claims against Beacon for engaging in the following conduct during the period from May 1, 2000 through the Effective Date: (a) billing Medicare and the Wisconsin Medicaid program for advanced life support services rendered in Wisconsin when the Beacon ambulance was staffed with fewer than two Wisconsin-licensed Emergency Medical Technician – Paramedics; (b) submitting and/or causing the submission of altered documents to Medicare and the Wisconsin Medicaid program which did not accurately reflect the medical services that were rendered or the personnel who performed the services; (c) billing Medicare and the Wisconsin Medicaid program for services rendered in Wisconsin by personnel who were not licensed in the state of Wisconsin where the services were rendered; (d) billing Medicare and the Wisconsin and Michigan Medicaid programs for medical services performed by personnel licensed as Emergency Medical Technician – Basics as though those services were performed by Emergency Medical Technician – Paramedics; and (e) billing Medicare and the Wisconsin and Michigan Medicaid programs for services rendered in Wisconsin and in Michigan in violation of law, because the Beacon personnel performed services beyond their scope of licensure. Hereinafter, the conduct identified in this Paragraph shall be collectively referred to as the “Covered Conduct ”

- E. This Agreement is neither an admission of liability by Beacon, which expressly denies any liability, nor a concession by the United States, Michigan, Wisconsin, or Relator that the asserted claims are not well-founded.
- F. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation, the Parties have reached a full and final settlement pursuant to the Terms and Conditions below.

III. TERMS AND CONDITIONS

Beacon agrees to pay to the sum of Two Hundred Thirty Thousand One Hundred Ninety Three Dollars (\$230,193.00) (the "Settlement Amount") to the United States, Relator, Michigan, and Wisconsin, as follows:

1. Beacon agrees to pay the United States Two Hundred Eighteen Thousand Nine Hundred Forty-Six Dollars (\$218,946.00) of the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the United States. Beacon agrees to make this electronic funds transfer within ten (10) business days after the Effective Date of this agreement.
2. Contingent upon the United States receiving from Beacon the portion of the Settlement Amount delineated in the preceding paragraph, and as soon as feasible after receipt of same, the United States agrees to pay Sixty-One Thousand Five Hundred Dollars (\$61,500.00) to the Relator, by electronic funds transfer, as Relator's agreed-upon share of the Settlement Amount under 13 U.S.C § 3730(d)(2). Payment to the Relator under this agreement shall be made by electronic funds transfer in accordance with the written instructions of Relator's Counsel, David L. Haron.
3. At the same time it pays the Settlement Amount to the United States, Beacon agrees to pay Wisconsin Four Thousand Five Hundred Fifty-Four Dollars (\$4,554.00) of the

Settlement Amount as Wisconsin's exclusive share, i.e. after satisfaction of the federal share, of the recovery of all Medicaid payments related to Civil Action.

4. At the same time it pays the Settlement Amount to the United States, Beacon agrees to pay Michigan Six Thousand Six Hundred Ninety-Three Dollars (\$6,693.00) of the Settlement Amount as Michigan's exclusive share, i.e. after satisfaction of the federal share, of the recovery of all Medicaid payments related to Civil Action

5. At the same time it pays the Settlement Amount to the United States, Beacon shall deliver to Relator's counsel, David L. Haron, pursuant to Relator's counsel's written instructions, reasonable court costs and attorneys' fees, costs and expenses incurred in connection with the Civil Action in the amount of Thirty Thousand Dollars (\$30,000.00). This payment of the court costs and attorneys' fees, costs and expenses is in addition to, and not included within, the Settlement Amount payment that Beacon is making to the United States pursuant to this Agreement.

6. Subject to the exception in Paragraph 7 below, in consideration of the obligations of Beacon set forth in this Agreement, conditioned upon Beacon's full payment of the Settlement Amount, and court costs and attorneys' fees, costs and expenses, and subject to Paragraph 15 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement), the United States, Michigan, and Wisconsin, on behalf of themselves, their officers, agents, agencies, and departments, agree to release Beacon and its affiliated entities, and their owners, officers, agents, and employees for the Covered Conduct, from any civil or administrative monetary claim the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3807-3812; or

the common law theories of payment by mistake, unjust enrichment and fraud, or that Michigan or Wisconsin may have under the Medicaid False Claims Act, MCL 400.601 *et seq* or the Wisconsin equivalent, or the common law theories of payment by mistake, unjust enrichment and fraud

7. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Beacon) are the following claims of the United States, Michigan and Wisconsin:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusion from federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon such obligations as are created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services; and
- g. Any liability for personal injury or property damage for other consequential damages arising from the Covered Conduct.

8. Beacon waives and shall not assert any defenses Beacon may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution,

this Agreement bars a remedy sought in such criminal prosecution or administrative action.

Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for the purposes of the Internal Revenue laws, Title 26 of the United States Code.

9 Conditioned upon receipt of Relator's share, Relator, for himself individually, and for his heirs, successors, agents, and assigns, agrees not to object to this Agreement and further agrees and confirms that this Agreement is fair, adequate, and reasonable under all of the circumstances, and fully and finally releases, waives, and forever discharges the United States, Michigan and Wisconsin, and their officers, agents, and employees, from any claims arising from or relating to 31 U.S.C. § 3730, including 31 U.S.C. §§ 3730(b), (c)(5), (d), and (d)(1), from any claims arising from the filing of the Civil Action, from any other claims for a share of the Settlement Amount defined herein, and in full settlement of any claims Relator may have under this Agreement. This Agreement does not resolve, or in any manner affect, any claims the United States, Michigan and/or Wisconsin has or may have against the Relator arising under Title 26, U.S. Code (Internal Revenue Code), state tax codes, or any claims arising under this Agreement.

10. Conditioned upon receipt of the payments described above, the Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases Beacon and its affiliated entities, and their owners, officers, agents, and employees, from any liability from the beginning of time through the Effective Date, for any and all claims, including but not limited to claims arising from Relator's employment and termination from Beacon, the Covered Conduct, the filing of the Civil Action, and under 31 U.S.C. § 3720(d) for court costs and attorneys' fees, costs and expenses.

11. Beacon fully and finally releases the United States, Michigan, and Wisconsin, their respective agencies, employees, servants, and agents from any claims (including court costs and attorneys' fees, costs and expenses of every kind and however denominated) which Beacon has asserted, could have asserted, or may assert in the future against the United States, Michigan and/or Wisconsin and their respective agencies, employees, servants, and agents, related to the Covered Conduct and the United States', Michigan's or Wisconsin's investigation and prosecution thereof. Beacon fully and finally releases the Relator, and his heirs, successors, partner, employees, agents, attorneys, consultants and/or assigns from any claims (including court costs and attorneys' fees, costs and expenses) of every kind and however denominated which Beacon, or any of them asserted, could have asserted, or may assert in the future against Relator, his heirs, successors, partners, employees, agents, attorneys, consultants and/or assigns related to the Civil Action and/or the Covered Conduct.

12. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment, by any Medicare or Medicaid carrier or intermediary or any state payer, related to the Covered Conduct; and Beacon shall not resubmit to any Medicare carrier or intermediary or any state payer any previously denied claims related to the Covered Conduct, and shall not appeal any such denials of claims.

13. Beacon agrees to the following:

- a. Unallowable Costs Defined: that all costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47 and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg and 1396-1396v, and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Beacon, in connection with the following shall be "unallowable costs" on

contracts with the United States, Michigan and Wisconsin and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employee Health Benefits Program ("FEHBP"):

- (1) the matters covered by this Agreement;
- (2) the United States', Michigan's or Wisconsin's audits and any civil or criminal investigations of the matters covered by this Agreement;
- (3) Beacon's investigation, defense, and corrective actions undertaken in response to the audits by the United States, Michigan or Wisconsin and any civil or criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment Beacon makes to the United States pursuant to this Agreement and any payments that Beacon may make to the Relator, including costs and attorneys' fees

b. Future Treatment of Unallowable Costs: These unallowable costs shall be separately determined and accounted for by Beacon and Beacon shall not charge such unallowable costs directly or indirectly to any contracts with the United States or any state Medicaid program, or seek payment for such unallowable costs through any cost report, cost statement, information statement, or payment request submitted by Beacon, or any subsidiaries or affiliates to the Medicare, Medicaid, TRICARE or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Beacon further agrees that within Ninety (90) days of the Effective Date of this

Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers and/or contractors, and Medicaid and FEHBP fiscal agents, any unallowable costs (as defined in this Paragraph) included in the payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports or payment requests already submitted by Beacon or any of its subsidiaries or affiliates, and shall request and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the unallowable costs. Beacon agrees that the United States, at a minimum, shall be entitled to recoup from Beacon any overpayment plus applicable interest and penalties as a result of the inclusion of such allowable costs on previously-submitted cost reports, information reports, cost statements or requests for payment.

- d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Beacon's books and records to determine that no unallowable costs have been claimed in accordance with the provisions of this Paragraph.

14. Beacon warrants that it has reviewed its financial situation and is currently solvent within the meaning of 11 U S C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Beacon, within the meaning of 11 U S C. § 547(c)(1); and (b) conclude that these

mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which Beacon was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

15. If, within 91 days of the Effective Date of this Agreement or of any payment made hereunder, Beacon, commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors, (a) seeking to have any order for relief of Beacon's debts, or seeking to adjudicate Beacon as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for Beacon Clinic or for all or any substantial part of Beacon's assets, Beacon agrees as follows:

- a. Beacon's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and Beacon shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Beacon's obligations under this Agreement may be avoided under 11 U.S.C. § 547, (ii) Beacon was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States hereunder; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Beacon.
- b. If Beacon's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, Michigan, Wisconsin and/or

Relator, at their sole individual options, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action, or proceeding against Beacon for the claims that would otherwise be covered by the releases provided in Paragraphs 7, 10 and 11, above. Beacon agrees that: (i) any such claims, actions, or proceedings brought by the United States (including any proceedings to exclude Beacon from participation in Medicare, Medicaid, or other Federal health care programs) are not subject to an “automatic stay” pursuant to 11 U.S.C. § 362(a) as a result of the action, case, or proceeding described in the first clause of this Paragraph, and that Beacon shall not argue or otherwise contend that the United States’ claims, actions, or proceedings are subject to an automatic stay; and (ii) Beacon shall not plead, argue or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceedings which are brought by the United States within 90 calendar days of written notification to Beacon that the releases herein have been rescinded pursuant to this paragraph, except to the extent such defenses were available on the effective date of this Agreement.

- c. Beacon acknowledges that their agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

16. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement

17. Beacon and Relator represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

18. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement shall be the United States District Court for the Western District of Wisconsin.

19. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties. The Parties agree that each Party has been involved in the formation of this Agreement and no Party shall be considered the drafter of the Agreement.

20. With the exception of releases set forth in Paragraphs 6, 9, 10 and 11 above, this Agreement is otherwise intended to be for the benefit of the Parties only, and the Parties do not otherwise release any claims against any other person or entity.

21. Upon the execution of this Agreement, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal in the form attached as Exhibit A to this agreement by which the Court presiding over the Civil Action will dismiss the Civil Action, with prejudice, while retaining jurisdiction in the event that Beacon fails to pay the amounts delineated in Paragraphs 1 through 5, above.

22. The individual(s) signing this Agreement on behalf of Beacon represent and warrant that they are authorized by Beacon to execute this Agreement. The individual(s) signing this Agreement on behalf of the Relator represents and warrants that they are authorized by the Relator to execute this Agreement. The United States, Michigan and Wisconsin signatories

represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement

23 This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement

24 This Agreement is binding on any and all successors, transferees, and assigns of the Parties.

25 All Parties consent to the United States' disclosure of this Agreement and information about this Agreement to the public.

26 The "Effective Date" of this Agreement shall be the date of signature of the last signatory to the Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

Dated: 3-27-07

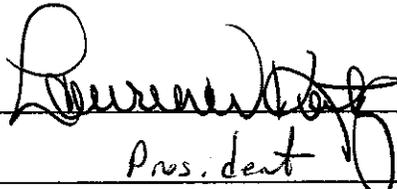
ERIK C. PETERSON
United States Attorney

By:  _____

STEPHEN E. EHLKE
Assistant United States Attorney
United States Attorney's Office
Western District of Wisconsin
Suite 303, City Station
660 W. Washington Avenue
P.O. Box 1585
Madison, WI 53701-1585

BEACON AMBULANCE SERVICE, INC.

Dated: March 27, 2007

By: 
Its: Pres. dent

Dated: _____

By: _____
NATHAN A. FISHBACH
Counsel for Beacon Ambulance Service, Inc.
Whyte Hirschboeck Dudek S.C.
555 East Wells Street, Suite 1900
Milwaukee, WI 53202
(414) 978-5414

Dated: _____

By: _____
JAMES F. HARRINGTON
Counsel for Beacon Ambulance Service, Inc.
Ruder Ware
500 Third Street, Suite 700
P.O. Box 8050
Wausau, WI 54402-8050
(715) 261-7405

THE RELATOR

Dated: _____

JAMES LA FORTUNE

Dated: _____

By: _____
DAVID L. HARON
Frank, Haron, Weiner and Navarro
Counsel for Relator and on behalf of
Kasdorf, Lewis & Swietlik SC
Co-Counsel for Relator
5435 Corporate Drive, Suite 225
Troy, MI 48098
(248) 592-0400

BEACON AMBULANCE SERVICE, INC.

Dated: _____

By: _____

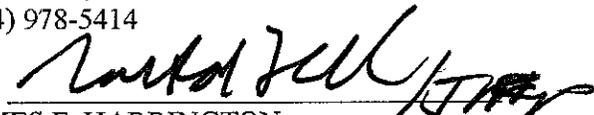
05/20/07
Dated: 05/20/07

Its: _____

By: 

NATHAN A. FISHBACH
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555 East Wells Street, Suite 1900
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05/31/07
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THE RELATOR

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THE RELATOR

Dated: 3-27-07



JAMES LA FORTUNE

Dated: _____

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BEACON AMBULANCE SERVICE, INC.

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Its: _____

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Dated: _____

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THE RELATOR

Dated: _____

JAMES LA FORTUNE

Dated: March 27, 2007

By: 

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Counsel for Relator and on behalf of
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THE STATE OF MICHIGAN

Dated: 3/27/2007

MICHAEL COX
Attorney General

By:  _____

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THE STATE OF WISCONSIN

Dated: _____

J.B. VAN HOLLEN
Attorney General

By: _____
THOMAS L. STORM
Assistant Attorney General

THE STATE OF MICHIGAN

Dated: _____

MICHAEL COX
Attorney General

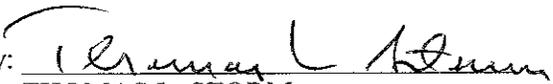
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THE STATE OF WISCONSIN

Dated: March 27, 2007

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