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October 8, 2021

VIA EMAIL AND HAND DELIVERY

The Honorable Danielle Farr-Ewing
Clerk of City Council
505 Travis Street
Shreveport, Louisiana 71101
Danielle.ewing@shreveportla.gov
LEGAL-DL@shreveportla.gov

Re: **Balentine Ambulance Services, Inc.** - Appeal to the Shreveport City Council from Chief Whitehorn's Issuance of Class A Licenses for Non-Emergency Ambulance Services and Certificates of Public Convenience and Necessity.

Dear Ms. Farr-Ewing:

This filing serves as a *Reply Memorandum* to the allegations raised by Ochsner LSU Health Shreveport Academic Medical Center ("Ochsner") on October 6, 2021 ("Opposition").

In its Opposition, Ochsner argues that Balentine Ambulance Services, Inc. ("Balentine") failed to meet Ochsner's needs despite being afforded multiple opportunities to do so. As evidenced in previous filings and reiterated herein, Ochsner's bare bones accusations are entirely false and lack any relevance whatsoever to the issue(s) currently before this Honorable Council.

As identified in Balentines' original filing (which was supported my numerous documents and an accompanying affidavit of its Chief Executive Officer), Balentine did everything it could to identify any **purported** needs in this community. In fact, when Balentine initiated this appeal, Balentine had not received a single complaint which was accompanied by an actual date, supporting document, or eyewitness.

Now, after reviewing the Opposition, it appears Ochsner intends on putting forth affidavits and/or supporting documents at the upcoming hearing in an attempt to manufacture an unmet need by Balentine. If Ochsner has such documentation (which is denied), Ochsner should have provided this information to Balentine in advance of the upcoming hearing! For this reason and consistent with the local rules and applicable ordinances, Balentine objects to the introduction of such

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information and will certainly reiterate this objection at the upcoming hearing.¹

Assuming Ochsner has evidence of a temporary and permanent need which is not being met by Balentine (which it does not) and that Ochsner previously shared this information with Balentine (which it did not), Ochsner's argument would still lack merit as it is outside the bounds of what is currently before this Honorable Council. The point of Balentine's appeal is that Chief Administrative Officer, Mr. Henry Whitehorn, ("Chief Whitehorn") failed to follow the required procedures set forth in the Shreveport Code of Ordinances ("Code"). That is, Chief Whitehorn was required to identify a temporary and permanent need, notify Balentine of the temporary and permanent need, and provide Balentine with the opportunity to meet the temporary and permanent need. Chief Whitehorn did not do any of those things!

Again, to issue a Certificate of Public Convenience and Necessity ("Certificate of Public Need"), Chief Whitehorn must follow a very detailed procedure. **There is nothing in the Code that allows Chief Whitehorn to pass his mandatory notice requirements to a third party such as Ochsner.**

Thus, in determining whether Balentine's appeal should be granted, this Honorable Council only needs to ask one simple question: did **Chief Whitehorn** follow the Code's mandatory procedures? Ochsner's silence on this point is further evidence that Chief Whitehorn did not.²

For these non-exclusive reasons, Chief Whitehorn's decision to issue the Certificates of Public Need and the Class A Licenses should be rescinded as a matter of law.

Sincerely,

/s/ Lee H. Ayres

Lee H. Ayres

¹ If this Honorable Council allows such information into the record of this proceeding, Balentine reserves its right to put forth the testimony of its owners, officers, and/or employees to rebut the same.

² Because the Opposition does not address the issue currently before this Honorable Council, Balentine anticipates that subsequent briefing may occur on behalf of Ochsner (or another party). In such a case, Balentine fully intends on filing a subsequent memorandum to respond to the same.

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Enclosures

cc: Mr. Dannye W. Malone (via email w/ enc.)
Mr. Chaz Coleman (via email w/ enc.)
Mr. Ronald Lattier (via email w/ enc.)
Mr. Glenn L. Langley (via email w/ enc.)