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December 7, 2009

Ms. Illene Glasser, President
Island Search Group Inc.
20 Crossways Parkway North, Suite 301
Woodbury, NY 11797

Re: Limited Audit of Island Search Group Inc. Compliance with the Nassau
County Living Wage Law

Dear Ms. Glasser:

A limited compliance audit was performed on contracts between Island Search Group Inc. ("ISG") and Nassau County. ISG provides temporary personnel services under the contract number CQAR08000001 with the Nassau County Assessment Review Commission ("ARC"); contract number CQAS08000003 with the Nassau County Assessment Department ("AS") and contract number CQSS07000016 with the Nassau County Department of Social Services ("DSS"). The objective of this audit was to determine whether ISG was in compliance with the Nassau County Living Wage Law ("the Law"). The period of review was calendar years 2007 and 2008 for DSS and from the commencement dates of the ARC and AS contracts, August 4, 2008 and July 14, 2008, respectively. To accomplish our objective, we reviewed ISG's pertinent books and records and interviewed personnel.

Based on our limited audit, our findings and recommendations are as follows:

Audit Finding (1):

Living Wage Rate:

ISG did not pay the benefits supplement rate required by the Law. The Law requires that "Employers shall pay their employees no less than the living wage for each hour they perform County work and either provide them benefits or supplement their hourly wage rate by an

amount no less than the benefits supplement rate.”¹ During the audit period, the living wage from January 1, 2007 to July 31, 2008 was \$9.50 per hour and the benefits supplement rate was \$1.50 per hour, aggregating to \$11.00 per hour, and from August 1, 2008 to December 31, 2008, the living wage was \$10.50 per hour and the benefits rate was \$1.55 per hour, aggregating to \$12.05 per hour. As ISG did not provide any benefits, it was required to pay a combined hourly rate of \$11.00 or \$12.05 per hour.

DSS Contract

We reviewed ISG’s payroll registers for employees who worked under the DSS contract in March 2007, and in March and September 2008. We noted that ISG did pay the living wage rate. However, ISG did not provide health benefits or pay its employees the benefits supplement. We requested that ISG determine the amount owed to covered employees for the audit period. According to ISG’s calculation, employees are owed \$103,599.01. These underpayments affected 67 employees for 2007 and 48 employees for 2008.

We reviewed ISG’s calculation and found that ISG did not apply the correct benefits supplement rate to the total hours worked from August 1, 2008 to December 31, 2008. ISG calculated the monies due using a benefits supplement rate of \$1.50 instead of the mandated rate of \$1.55. We applied the correct rate to ISG’s calculation and found that an additional \$654.90 is due to covered DSS employees.

We also tested a sample of thirteen employees from each year to determine if the total hours used to calculate the underpayment of benefits were accurate and if the proper wage rates were used. We found that ISG under-reported the 2008 hours worked for two employees assigned to DSS by a total of 25.25 hours. Applying the benefits supplement rate of \$1.55 per hour, these employees were underpaid by \$39.14.

We also found that ISG underpaid DSS assigned employees for compensated time off because payments did not include the benefits supplement rate. ISG provided a schedule of accrued days earned and taken. Our review of the schedule showed that a total of 74 accrued days were taken in 2007 and 246 days were taken in 2008. Based on the benefits supplement rate of \$1.50 per hour (\$10.13/day), which was in effect up through July 31, 2008, the employees are owed an additional \$749.62 for 2007 and \$2,491.98 for 2008.

ARC Contract

We reviewed all payrolls for the nine employees who were assigned to the ARC contract and found that one employee was paid only \$10.00 per hour, instead of the required \$12.05 per hour for 13.5 hours worked between October 23 and 24, 2008. This resulted in an underpayment of \$27.68.

¹ “Nassau County Living Wage Law,” Nassau Co. Misc. Laws, Title 57 (2007) § 3a The Law and Rules can be found on the Comptroller’s website at:
<http://www.nassaucountyny.gov/agencies/Comptroller/LivingWage/index.html>

Audit Recommendations:

ISG should ensure that all employees are paid according to the Law. It should recalculate its assertion of \$103,599.01 owed and then make payment to the employees. The following corrections should be included in the recalculation:

- a) Use the correct health benefits supplement rate of \$1.55 per hour for hours worked after July 31, 2008.
- b) Ensure that all eligible hours worked by employees are included in its calculation of supplemental benefits owed. Pay the two employees in our test sample, whose hours were understated by 25.25 hours, the \$39.14 owed to bring their benefits supplement to \$1.55 per hour and perform a review to determine if any other employee's hours were understated.
- c) Ensure that payments for all compensatory time include the correct benefits supplement rate. Employees should be paid the additional \$749.62 for compensated days off taken in 2007. The amount of \$2,491.98 owed for 2008 was based on a supplemental benefits rate of \$1.50 per hour and should be adjusted upward to reflect a benefits rate of \$1.55 per hour for any time worked after July 31, 2008.
- d) Pay the employee who worked under the ARC contract \$27.68 to make up for the living wage underpayment.
- e) Provide the Comptroller's Office with its recalculation of amounts owed to employees along with payroll registers evidencing payment.

Audit Finding (2):

Living Wage Policy

ISG's compensated days off policy for covered employees did not comply with the Living Wage Law with regard to part-time employees. The Law requires employers to provide "no fewer than twelve (12) paid days off per year for sick leave, vacation or personal necessity at the employee's request. Full-time employees shall accrue such leave at a rate of one day per month of full-time employment. Part-time employees who work twenty or more hours per week shall accrue such leave in increments proportional to the rate of accrual for full-time employees. Any employee shall be eligible to begin using such accrued leave six months following his or her start date of employment, or consistent with company policy, whichever is sooner."²

ISG's "Procedures for Temporary Employees" states, "You will accrue time off at the rate of one day for each month worked and you will be eligible to begin using the accrued paid time off six (6) months after your start date. You will be entitled to five (5) days paid vacation and seven (7) paid holidays." The policy does not include any statements covering the granting of proportional time to employees who work 20 or more covered hours in a week. As a result, covered

² "Nassau County Living Wage Law," Nassau Co. Misc. Laws, Title 57, § 3 (2007). The Law and Rules can be found on the Comptroller's website at:
<http://www.nassaucountyny.gov/agencies/Comptroller/LivingWage/index.html>.

employees may not be aware that if they work 20 or more hours weekly they are entitled to accrued leave time.

Audit Recommendation:

ISG should explicitly state in its Policy that part-time employees have the right to accrued leave increments proportional to the rate of accrual for full-time employees.

Audit Finding (3):

Compensated Days Off

Our tests of 13 employees from each year of the DSS contract found that two employees' accrued leave due for the audit period was understated. One employee's accrued time was understated by .92 days or \$68.31, and the other employee's time was understated by .19 days or \$15.46.

Audit Recommendation:

ISG should ensure that no other employee's hours were understated and pay the two employees the monies due. Proof of payment should be provided to the Comptroller's Office.

The matters covered in this report have been discussed with the officials of ISG during the course of this audit. On October 15, 2009, our Office submitted a report in draft for ISG's comments. ISG provided its comments on October 29, 2009. ISG's comments, and our responses to those comments, have been included as Appendix A in this final report.

Sincerely,



Aline Khatchadourian
Deputy Comptroller for Audit and Special Projects



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October 29, 2009

**VIA ELECTRONIC AND
REGULAR MAIL**

Ms. Aline Khatchadourian
Deputy Comptroller
Office of the Comptroller
240 Old County Rd. Mineola, NY 11501

Re: Island Search Group

Dear Ms. Khatchadourian:

We are counsel to Island Search Group ("ISG") in reference to your office's draft audit of compliance and write to provide the following comments. We reiterate ISG's position that it has at all times been in compliance with the Living Wage Law. To wit, ISG is entitled to a waiver of the Living Wage Law's application to the contracts at issue due to the fact that its highest paid (and only) officer made considerably less than six times the amount earned by its lowest paid employee. See Local Law 1-2006, Misc. Laws Title 57, App B., Sec. 4(b)(iv)(E)(1).

Nevertheless, ISG has assisted the Comptroller's Office and cooperated fully throughout the audit process in good faith. Furthermore, we note that ISG is currently in compliance with the Living Wage Law with respect to all open contracts.

Please contact the undersigned if you have any further questions or we can provide further information.

Very truly yours,

JACKSON LEWIS LLP

Craig S. Roberts

NPT:dc
cc: Doug Hutter (via electronic mail)

Auditor's Follow-up Response

Island Search Group was not granted waivers to the Living Wage Law for the contracts covered by the audit because the agency did not submit its request for waivers until May 2009. Without a waiver from the County Executive, Island Search was required to pay the living wage and provide paid days off as required by the Law. We reiterate our recommendations that Island Search pay its employees any monies due.