



**Hon. George Maragos**  
*Nassau County Comptroller*



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**VIA E-MAIL AND U.S. MAIL**

January 8, 2015

Ms. Daphne Haynes, Executive Director  
Peace Valley Haven, Inc.  
250 Fulton Avenue - Suite M199  
Hempstead, NY 11550

Re: Limited Audit of Peace Valley Haven, Inc.'s 2012 and 2013 Compliance with the Nassau County Living Wage Law

Dear Ms. Haynes:

We have completed our Living Wage compliance review of Peace Valley Haven, Inc. ("PVH"). The objective of this review was to determine whether PVH was in compliance with the Living Wage Law ("Law") and the related rules<sup>1</sup>. The review period was January 1, 2012 - August 31, 2013.

In addition, we performed a follow-up review of the significant findings identified in the prior audit<sup>2</sup> report, specifically:

- to determine if employees that were owed back pay for 2010 and 2011 (that had been paid less than mandated Living Wage rates) had been fully reimbursed; and
- to verify that the compensated time off policies of PVH, which previously were not in accordance with the Law, had been revised.

The key findings of this review were:

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<sup>1</sup> Rules of the Nassau County Comptroller and Rules of the Nassau County Executive.

<sup>2</sup> The previous audit of Peace Valley Haven covered the period 2010-2011. The Comptroller's Office Limited Audit Report was issued on April 2, 2013. <http://www.nassaucountyny.gov/DocumentCenter/View/3891>

1. PVH did not fully complete the repayments to all of the employees identified in the prior audit report who were underpaid in 2010/2011. Eight employees are still owed in excess of \$11,000.
2. PVH failed to comply with the terms of section 52(b) of the Living Wage Law as well as the County Memorandum of Understanding with this agency by failing to provide complete original payroll records to the auditors for 2012.
3. Overtime is not being paid to employees at PVH as stated in their Personnel Manual. For the period 2012 – 2013, overtime in the amount of \$13,354 is due to nine employees.
4. Hourly rates paid to employees in 2013 were less than the rates mandated by the Law. For the period January – August 2013, a total of \$3,381 is due to six employees.
5. Compensated time off is not being properly tracked by PVH. Provisions for loss of compensated time off upon the termination of employment are not in accordance with the Law, as noted in our prior audit.
6. PVH is not in compliance with Federal OMB Circular A-122 “Cost Principles for Non-Profit Organizations” with respect to charitable donations.

### **Audit Finding (1)**

#### **PVH Did Not Fully Complete the Repayments to Employees Identified in the Prior Audit Report who were Underpaid in 2010/2011**

The prior audit report identified twenty-six employees who were owed over \$120,000 for 2010 and 2011 and were scheduled to receive repayment. As shown in Exhibit I, a review of the repayments issued illustrated that eight of the aforementioned employees that had been paid below the Living Wage are still owed in excess of \$11,000.

## Exhibit I

### Employees Still Owed Money 2010-2011

<u>Employee Name</u>	<u>Total Back Pay Due</u>	<u>Amount Repaid</u>	<u>Amount Still Due</u>
Employee A	\$ 6,134	\$ 2,587	\$ 3,547
Employee B	10,319	10,082	237
Employee C	6,156	5,993	163
Employee D	8,047	7,074	973
Employee E	1,970	1,647	323
Employee F	1,337	807	530
Employee G	3,629	3,494	135
Employee H	5,330	-	5,330
<b>Total Amount</b>	<b>\$ 42,922</b>	<b>\$ 31,684</b>	<b>\$ 11,238</b>

Our review of the amounts repaid to the employees listed in Exhibit I, relating to work performed in 2010-2011, revealed the following:

- PVH advised us in August 2014 that Employee A and Employee H were deceased, but did not provide their respective dates of death. As noted below, we found that monies are still owed to the Estates of these individuals which had not been resolved as of the date of this letter.
  - Employee A received gross back pay totaling \$2,587 prior to passing away, however his estate is still due \$3,547.
  - Employee H was issued three checks totaling \$3,542 in gross back pay; however, the checks were never cashed. Therefore, PVH still owes the estate of Employee H the total amount of back pay (\$5,330).
- Employee B was issued three payments totaling \$10,082 from July – October of 2013. We noted a discrepancy with respect to one of the payments. The check advice indicated a net amount paid of \$938, however the check itself was written for \$438, leaving an unexplained difference of \$500. PVH did not respond to our initial June 2014 request for an explanation until November 2014, at which time PVH responded that it was an oversight and issued a check for \$500 to Employee H.

## **Audit Recommendations:**

We recommend that PVH:

- a. immediately adhere to the repayment schedule and provide proof of payment to the Comptroller's Office;
- b. provide a copy of the \$500 cancelled check for review by the auditors; and
- c. work with their Legal Counsel to ensure that the estates of Employee A and Employee H are reimbursed for the outstanding back pay for the period 2010-2011, or, if appropriate, forward the amounts to New York State as provided by the State's abandoned property laws.

## **Audit Finding (2)**

### **Peace Valley Haven Failed to Provide Complete Payroll Records for 2012 Indicating the Number of Hours Worked and Rate Paid for Each Employee as Required by the Living Wage Law**

PVH conducted a self-audit in 2012 and provided this document to the auditors. However, the Living Wage Law states, "Every employer shall maintain original payroll records for each of its employees reflecting the days and hours worked on contracts, projects or assignments that are subject to the requirements of this law."<sup>3</sup> An independent review of hours worked could not be performed since these records were not provided to the auditors. After numerous requests, we received a bi-weekly payroll report for 2012, which indicated the employee name, Social Security number, gross pay and taxes deducted. This was not sufficient for our auditors to identify the hours worked by each employee per pay period and the hourly rate they were paid. A review was performed based on the hours provided by PVH in their self-audit documentation which consisted of an Excel spreadsheet prepared by PVH with the names of the employees, the hours worked each pay period and the rate at which they were paid. The self-audit revealed PVH owed ten employees \$41,394.

Our review of the 2012 self-audit revealed that the two deceased employees were also owed money for work performed in 2012, as follows:

- As shown in Exhibit II below, PVH issued two checks to deceased Employee A instead of Employee A's Estate and issued a third check to the Hempstead Funeral Home on behalf of Employee A. The notation fields on the checks indicate that \$1,000 was being considered a loan to Employee A, whereas it represented back pay. Our review of the December 2013 bank statements indicated that check number 1029 for \$1,000 had not

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<sup>3</sup> Nassau County Living Wage Law §5(2b.)

cleared. According to a letter dated September 24, 2014 from PVH to the County Comptroller's office, the check for \$3,036 was still outstanding. The appropriateness of writing checks to a known deceased person or to a third party (funeral parlor) in lieu of wages due to the deceased Employee is discussed in Audit Finding 6.

**Exhibit II**

**Checks Issued To/On Behalf of Deceased Employee A**  
**For Work Performed in 2012**

<u>Date</u>	<u>Check Number</u>	<u>Amount</u>	<u>Payee</u>	<u>Memo Field on Check</u>
11/21/2013	1029	\$ 1,000	Employee A	Loan for Employee A
12/16/2013	1035	\$ 1,040	Hempstead Funeral Home	Reissue Check for Employee A
1/31/2014	1062	\$ 3,036	Employee A	Living Wage Reimbursement minus \$1,000

- A check in the amount of \$1,589 was also issued to a deceased employee, (Employee H) and is still outstanding.

**Audit Recommendations:**

We recommend that PVH:

- a. take the necessary steps to ensure that it is in compliance with the terms of the Law;
- b. provide adequate payroll registers from their independent payroll company to support the hours worked and wages paid to their employees in 2012; and
- c. as noted in Finding (1), obtain guidance from their Legal Counsel to ensure that the estates of the deceased employees are compensated, or if appropriate, the amounts are remitted to New York State.

**Audit Finding (3)**

**Overtime is not being Paid to Employees at PVH as Stated in their Personnel Manual**

PVH’s Personnel Manual states that any employee working more than 80 hours per pay period will be paid overtime at a rate of 1.5 times their regular hourly rate. We noted that in 2012, nine of thirteen employees worked more than 80 hours in a two week pay period and were not paid overtime. This resulted in employees being underpaid by \$12,366. In 2013, three of eight employees worked more than 80 hours in a two-week pay period and were not paid overtime, resulting in employees being underpaid by \$988. Payment of overtime to certain employees working more than 40 hours per week is also a requirement of the Fair Labor Standards Act<sup>4</sup>. Exhibit III identifies overtime owed to employees for 2012 and 2013.

**Exhibit III**

**Overtime Underpayments**  
**Employees Who Earned Overtime 2012**

<b><u>Employee Name</u></b>	<b><u>OT Hrs Worked</u></b>	<b><u># Pay Periods OT worked</u></b>	<b><u>OT Earnings Owed</u></b>
Employee A	347.60	19	\$ 2,539
Employee B	62.00	4	453
Employee C	36.30	3	265
Employee D	460.50	22	3,364
Employee E	473.50	24	3,459
Employee F	72.00	5	526
Employee G	6.00	1	57
Employee H	169.70	14	1,188
Employee I	73.60	6	515
<b>Totals</b>	<b><u>1,701.20</u></b>	<b><u>98</u></b>	<b><u>\$ 12,366</u></b>

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<sup>4</sup> Fair Labor Standards Act of 1938 Section 7(a), 29 U.S.C. § 207(a) (2014).

**Overtime Underpayments**  
**Employees Who Earned Overtime 2013**

<b><u>Employee Name</u></b>	<b><u>OT Hrs Worked</u></b>	<b><u># Pay Periods OT worked</u></b>	<b><u>OT Earnings Owed</u></b>
Employee A	46.50	3	\$ 430
Employee D	22.25	3	206
Employee E	38.00	3	352
<b>Totals</b>	<b><u>106.75</u></b>	<b><u>9</u></b>	<b><u>988</u></b>

**Audit Recommendations:**

We recommend that PVH:

- a. adhere to the policies stated in their Personnel Manual and the Fair Labor Standards Act regarding overtime pay;
- b. calculate how much each of the nine employees should be paid for their overtime and issue back pay; and
- c. provide proof of payment to the Comptroller’s Office.

**Audit Finding (4)**

**Hourly Rates Paid to Employees in 2013 Were Less than the Rates Mandated by the Law**

We reviewed PVH’s individual Employee Payroll History Reports for 2013 to verify that the hourly rates paid to their employees were in compliance with the Law. We noted that five employees earned less than the Living Wage during the pay periods we tested from January – August 2013. The Living Wage rate for the period August 1, 2012 - July 31, 2013 was \$13.11. The health benefit supplement was \$1.80, aggregating to \$14.91. For the period August 1, 2013 – July 31, 2014, the Living Wage rate was \$13.35. The health benefit supplement was \$1.86, aggregating to \$15.21. We found that PVH paid their employees at the rate with benefits (\$13.11) when they should have been paid the higher rate (\$14.91) as these employees were not receiving benefits. PVH owes these employees \$3,381 due to paying hourly rates lower than the rate mandated by the Law.

Exhibit IV summarizes the underpayments by period in 2013 and the number of employees affected.

**Exhibit IV**

**Underpayment of Wages**  
**January - July 2013**

<u>Period of</u> <u>Underpayment</u>	<u># of</u> <u>Employees</u> <u>Affected</u>	<u>Amount</u> <u>Underpaid</u>
01/07/13	4	\$ 563
01/20/13	5	558
02/04/13	5	657
02/19/13	5	599
03/04/13	5	496
03/19/13	5	491
06/11/13	1	17
<b>Total</b>		<b><u>\$ 3,381</u></b>

**Audit Recommendations:**

PVH should:

- a. calculate how much each of these six employees should have earned using the rate mandated by law for employees not receiving benefits; and
- b. pay the monies due the covered employees and provide proof of payment to the Comptroller’s Office with supporting calculations.

**Audit Finding (5)**

**Compensated Time Off Policies at PVH are not in Compliance with the Law, as was the Case in our Prior Audit**

We reviewed PVH’s Personnel Manual to verify that its policies comply with the Law. Based on our limited review, we noted that PVH did not update their Personnel Manual as agreed to in the prior audit report. We noted the following two inconsistencies with the Law:

- §305 Sick Leave Benefits of the PVH Personnel Manual states: “Unused sick leave benefits will not be paid to employees upon termination of employment.” This is in conflict with §3b of the Law, which states “Compensated days off shall not be forfeited

upon separation from service: such days shall be paid out to the employee upon such separation at the living wage rate at the time of separation.”

- §403 Employment Terminations of the PVH Personnel Manual states: “Non-supervisory employees who voluntarily terminate their employment with Peace Valley Haven are urged to give their supervisor no less than two weeks’ written notice prior to the termination date. Positions at the supervisory level are encouraged to give a minimum of 4 weeks’ notice. Terminated employees will be entitled to payment of their remaining balance of vacation time if they have completed one year of employment and give at least the minimum amount of notice specified above.” This is in conflict with §3b of the Law, which states “Compensated days off shall not be forfeited upon separation from service: such days shall be paid out to the employee upon such separation at the living wage rate at the time of separation.” This may result in employees being denied days off mandated by the Law.

We requested a statement of balances of compensated days accrued and used on several occasions, but the information was never provided to us. Instead, PVH provided leave usage slips that were submitted by their employees to management requesting time off. PVH also provided an incomplete excel schedule showing only time off taken; leave accruals were not shown. Based on this incomplete information, PVH is not in compliance with this section of the Law.

### **Audit Recommendations:**

We recommend that PVH comply with the Law by:

- a. amending their Personnel Manual to remove statements that refer to forfeiting compensated days off; and
- b. keeping proper records of each employee’s accruals, usages and balances of compensated days off.

### **Audit Finding (6)**

#### **PVH is not in Compliance with Federal OMB Circular A-122 “Cost Principles for Non-Profit Organizations”**

PVH’s Memorandum of Understanding with the County states that PVH must adhere to the provisions of Federal OMB Circular A-122, including as it relates to compliance with allowable costs. A review of PVH’s bank statements and Form 990 revealed two instances where checks were written to the Hempstead Funeral Home; the notation on one of the checks (\$1,040) stated

“Reissued check for Employee A” and the notation on the second check (\$300) stated “Donation for Employee A Funeral”. Federal OMB Circular A-122 section 12 specifically states: “Contributions or Donations by the organization are never allowed regardless of the recipient.”<sup>5</sup> These funds do not in any way support the mission of PVH.

The County places many clients into Peace Valley Haven that are 100% federally funded; therefore, it is very important that PVH complies with the rules contained in Federal OMB Circular A-122. As shown in Exhibit V below, County payments to PVH from 2010-2013 totaled over \$2 million.

**Exhibit V**

**County Payments to PVH**  
**Emergency Shelter Program**  
**2010 -2013**

<b>Year</b>	<b>Amount</b>
2010	\$ 598,432
2011	470,207
2012	561,460
2013	436,025
<b>Total</b>	<b><u><u>\$ 2,066,124</u></u></b>

**Audit Recommendations:**

We recommend that PVH:

- a. adhere to the provisions of OMB Circular A-122 regarding contributions and donations; and
- b. refrain from writing checks directly to known deceased persons or to third parties, on behalf of the deceased, other than to the deceased’s Estate.

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The matters covered in this report have been discussed with the officials of Peace Valley Haven, Inc. during the course of this audit. On December 16, 2014, our office submitted a draft report to Peace Valley Haven, Inc. for its comments. Peace Valley Haven provided its comments via its attorney, Michael L. Cirrito, Esq. on December 30, 2014. Those comments and our auditor’s follow-up have been included as an appendix to this report.

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<sup>5</sup> Federal OMB Circular A122 prohibits 501(c) (3) organizations, such as Peace Valley Haven, from making charitable donations.

Sincerely,

JoAnn F. Greene

A handwritten signature in cursive script that reads "JoAnn F. Greene".

Director of Field Audit

JFG:AS

CC: Michael L. Cirrito, Esq., White Cirrito & McNally, LLP  
George Demos, CPA

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## Appendix

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### WHITE, CIRRITO & NALLY, LLP

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December 30, 2014

**VIA EMAIL [nccomptroller@nassaucountyny.gov](mailto:nccomptroller@nassaucountyny.gov) and REGULAR MAIL**

Attn.: JoAnne F. Greene, Director of Field Audit

OFFICE OF THE COMPTROLLER

240 Old Country Road

Mineola, New York 11501

Re: Limited Audit of Peace Valley Haven, Inc.'s 2012 and 2013 Compliance  
With the Nassau County Living Wage Law

Dear Ms. Greene:

I am sending you this correspondence on behalf of my client, Peace Valley Haven, Inc., and in response to your Limited Audit Finding Letter dated December 16<sup>th</sup>, 2014.

The purpose of this correspondence is to respond to each of the six (6) audit findings with backup documentation and set forth Peace Valley Haven, Inc.'s plan to correct these issues in the future. The audit findings will be discussed herein *in seriatim*:

1. With respect to the finding that Peace Valley Haven, Inc. did not complete the repayments to employees identified in the prior audit, please find enclosed Attachment "1", together with checks issued to each of the employees which pays the cited employees the back pay due with respect to the Living Wage requirements.

a. With respect to Employee "A", please be advised that the \$36,815.36 owed to this deceased employee is being held in my escrow account and unless claimed by an Estate representative will be transferred to New York State Unclaimed Funds, see Attachment "2".

b. With respect to Employee "H", the \$3,542.00 in gross pay that was paid to this deceased employee and never cashed because of his untimely death, I have currently in my IOLA Attorney Escrow Account this sum and I will make arrangements to have these funds transferred to the New York State Unclaimed Funds. A check made payable to my escrow account is attached as Attachment "3".

c. With respect to Employee "B", a check covering the balance of the Living Wage for 2013 was paid to this employee on November 19<sup>th</sup>, 2014, and a copy is attached hereto as Attachment "4".

## Appendix

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d. Peace Valley Haven, Inc. has agreed to provide accounting measures that will insure, in the future, that Living Wage and appropriate overtime and vacation/sick time are paid to its employees in accordance with New York State and Nassau County laws and regulations.

2. With respect to Audit Finding 2, please be advised again that all employees that were due Living Wage payments were paid pursuant to Attachment 1. Peace Valley Haven, Inc. has taken steps necessary to insure compliance with the laws in the future and enclosed as Attachment 5, is a letter from a current Board Member, Karen DeLeon, with respect to Peace Valley Haven, Inc.'s payroll efficiencies. Peace Valley Haven has also now retained the services of ADP to properly prepare payroll for the company in ease of review of future audits and payroll records. The \$1,589.00 issued to the deceased Employee "H" is still outstanding and is also contained in my escrow account and I will make arrangements to have this money transferred to the New York State Unclaimed Funds as soon as possible.

3. With respect to Audit Finding 3 that overtime was not paid to employees as stated in the personnel manual, the employees have now all been paid where it has been due and proof of payment is annexed in Attachment 1. Peace Valley Haven has agreed in the future to adhere to the policies of its personnel manual and the Fair Labor Standards Act with respect to overtime pay, and we have provided the relevant proofs.

4. With respect to Audit Finding 4 that hourly rates paid to employees in 2013 were less than the rates mandated by law, please be advised that all employees in 2013 were properly paid the appropriate wages and, again, this information is contained in Attachment 1.

5. With respect to Audit Finding 5, the Sick Leave and Employee Termination sections of the Peace Valley Haven personnel manual will be amended to state that the Sick Leave Benefits Policy will include the fact that "compensated days off shall not be forfeited upon separation from service: such days to be paid out to the employee upon such separation at the Living Wage rate at the time of separation." Additionally, the Peace Valley personnel manual with respect to employee termination will now state "compensated days off shall not be forfeited upon separation from service: such days to be paid out to the employee upon such separation at the Living Wage rate at the time of separation." Peace Valley Haven will insure that its personnel manual and policies do not conflict with Sick Leave Benefits and Employee Termination Law as cited in the Audit and proper records will, again, be kept through ADP and internally to insure that the employees are properly compensated.

6. With respect to Audit Finding 6, Peace Valley Haven agrees that it will not write any checks now directly to any known deceased persons or third parties on behalf of the deceased persons other than the deceased's estate or those providing proof that they have the authority to receive funds on behalf of the deceased's estate. Peace Valley Haven will, in the future, adhere to the provisions of OMB Circular A-122 and will never permit contributions or donations by its organization regardless of the recipient.

It is our sincere hope that this response and enclosed documentation is an appropriate and timely response to the Limited Audit of Peace Valley Haven, Inc. dated September 16<sup>th</sup>, 2014.

## Appendix

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If you are in need of any further information, please contact my office.

Please note that as of January, 2015, employees of Peace Valley Haven, Inc. will receive a salary of \$17.00/hour which is over the required Living Wage requirement of \$15.50/hour.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Michael L. Cirrito", with a long horizontal flourish extending to the right.

MICHAEL L. CIRRITO, ESQ.

MLC/tb  
Enclosures

### ***Auditor's Follow-Up Response***

***PVH's response letter included two attachments which are not included in this report because they contain confidential personal and payroll information. These documents are on file in the Comptroller's Office.***

### ***Audit Finding 1:***

*The auditors commend PVH on their efforts to repay the employees that were owed money from 2010-2011 due to wages being paid at less than the Living Wage Rate. We require copies of canceled checks and bank statements evidencing the repayment.*

*PVH's attorney responded that PVH has agreed to provide accounting measures that will insure, in the future, that Living Wage and appropriate overtime and vacation/sick time are paid to its employees in accordance with New York State and Nassau County laws and regulations. PVH should provide copies of these accounting procedures.*

*Our review of the supporting documentation provided by PVH noted that the amount of the \$6,815 check being held in escrow is \$20 less than the total amount of checks issued to deceased Employee A. Our review noted the amount held in escrow for deceased Employee H is \$1,788 less than the amount due which was identified in our audit. These differences must be resolved. The funds due to the deceased employees should be remitted to New York State Unclaimed Funds as quickly as possible with the guidance of PVH's legal counsel and proof of this should be provided to the auditors.*

### ***Audit Finding 2:***

*We commend PVH on their efforts to maintain adequate payroll records by retaining the services of ADP for their payroll functions.*

### ***Audit Finding 3:***

*The auditors require copies of canceled checks and bank statements as proof of payment of overtime due to employees.*

### ***Audit Finding 4:***

*Our review of the supporting documentation provided by PVH revealed that a check for \$17 was paid to Employee C, however, it should have been issued to a different employee who has the same first name. The auditors require copies of canceled checks and bank statements as proof of payment to employees who were paid the incorrect rate from January-July 2013.*

## Appendix

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### ***Audit Finding 5:***

*PVH should provide the auditors with a copy of their updated Personnel Manual reflecting the changes to the Sick Leave and Employee Termination sections.*

### ***Audit Finding 6:***

*Although PVH has agreed not to write any more checks to known deceased employees, we noted that checks from the special payroll of December 29, 2014, prepared as a result of our audit, were written to Employees A and H. These checks should have been written to the estate of Employees A and H. PVH should seek the advice of their legal counsel as they transfer the funds in escrow to New York State.*

*We acknowledge PVH's stated commitment to adhere to the provisions of Federal OMB Circular A-122.*