

OFFICE OF THE NASSAU COUNTY COMPTROLLER



**Limited Review of
ADD/ADHD Housing Group Inc.
Compliance with the Nassau County
Living Wage Law and Related
Memorandum of Understanding
for Years 2016 and 2017**

February 20, 2019

**JACK SCHNIRMAN
COMPTROLLER**

OFFICE OF THE NASSAU COUNTY COMPTROLLER

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OFFICE OF THE NASSAU COUNTY COMPTROLLER
LIMITED REVIEW OF ADD/ADHD HOUSING GROUP, INC.
RELATED MEMORANDUM OF UNDERSTANDING 2016 & 2017
REPORT SUMMARY

WHY WE DID THIS REPORT

This review was undertaken to determine if an agency which provides services to Nassau County, ADD/ADHD Housing Group, Inc., was in compliance with the Nassau County Living Wage Law. The Living Wage Law requires payment of a living wage, and provision of health benefits or a health benefit supplement to certain employees. It also reviewed provisions of the agency's agreement (Memorandum of Understanding) with Nassau County Department of Social Services for the provision of emergency shelter. *The Office of the Nassau County Comptroller is committed to undertaking living wage audits that get results.*

WHAT WE FOUND

- **Auditors identified underpaid wages and uncompensated time off worth more than \$47,000 to 17 employees:** 16 employees were paid less than the living wage rate resulting in underpayments of \$30,600; and 12 employees were not granted 1,079 hours of earned compensated time off totaling \$16,988.
- The agency represented that some compensation provided to employees was in the form of discounts on rental housing managed by the agency. Three employees were issued 1099-Misc. forms representing these purported housing discounts, which were not filed with the Internal Revenue Service, and may have therefore been false. If employees are provided housing discounts as part of their compensation, these "earnings" should have been included on Form W-2s, not Form 1099-Misc.
- Over \$237,000 in DSS service payments were not reflected as revenue on the agency's IRS Form 990 for 2016.
- The agency was not providing proof that employees were screened by the NYS Division of Criminal Justice Services Sex Offender Registry.

WHAT WE RECOMMENDED

- ADD/ADHD should compensate all employees for underpaid wages and properly compensate for time off, and provide proof of payment with supporting documentation to the Comptroller's Office for verification.
- ADD/ADHD should file corrected W-2s for the "earnings" related to discounted housing costs and an updated Form 990 for 2016 for addition revenues identified with the Internal Revenue Service.
- ADD/ADHD should screen all employees through the NYS Division of Criminal Justice Services Sex Offender Registry and provide proof of screening to the Department of Social Services.

WHAT WAS THE RESPONSE?

ADD/ADHD to date has:

- **Paid 16 employees \$30,600 in underpaid wages** and has agreed to pay 12 employees \$16,988 in compensated time off.
- Provided an amended 990 Form for 2016 and characterized the finding regarding filing of Form 1099 forms as "inconsequential." We reiterate that the agency should not issue false Form 1099s and that all employee compensation including rental assistance, be reflected in Form W-2s.
- Retroactively screened all employees through the NYS Division of Criminal Justice Services Sex Offender Registry.

WHY IS THIS REPORT IMPORTANT?

We must continue to demand accountability from employers to assure that living wage requirements are strictly enforced. Living wage audits such as this provide an important check on employers and provide real results in the form of back wages paid directly to impacted employees. We will follow up on the findings outlined in this report in six months to ensure our recommended changes were implemented.

Executive Summary

Purpose:

The objective of this review was to determine whether ADD/ADHD Housing Group Inc. was in compliance with both the County's Living Wage Law and the related Memorandum of Understanding.

This Law requires that ADD/ADHD Housing Group Inc. employees who perform work under their contract with Nassau County be paid the applicable wage rate and are provided with the Law's required compensated time off.

Introduction:

The Nassau County Living Wage Law ("Law") ensures that employees of certain companies that receive County funds are earning a living wage and are receiving health benefits or a health benefit supplement. Additionally, the law provides that full-time employees receive 12 paid days off a year, and part-time employees who work at least 20 hours per week, receive proportionate compensated days off¹.

The Summary of Findings and Recommendations as a result of this audit can be found on the next page.

¹ Miscellaneous Laws of Nassau County- Title 57 – Nassau County Living Wage Law

Executive Summary

Summary of Audit Findings and Recommendations	
Audit Finding	Audit Recommendation(s)
<p>1 Sixteen of the Seventeen Employees Entitled to the Living Wage Rate were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$30,600; and ADD/ADHD Did Not Provide Employee Payroll Time Records to Validate Hours Worked</p>	<p><u>ADD/ADHD should:</u></p> <p>a) pay the 16 employees noted in Appendix A, \$30,600 underpaid wages, and submit proof of payment to the Comptroller's Office;</p> <p>b) implement a daily employee time reporting process that documents the work dates, start and end times and the total hours worked by each employee every day;</p> <p>c) include the pay period beginning and ending dates, the employee hourly pay rates and the actual daily hours worked in the Biweekly payroll records;</p> <p>d) provide the Comptroller's Office with an explanation for the 10 employees who were paid without corresponding hours of work noted in the Payroll records.</p>
<p>2 Twelve Employees Were Not Granted 1,079 Hours of Earned Compensated Time Off Totaling \$16,988; and ADD/ADHD Did Not Maintain Earned Compensated Time Off Records</p>	<p><u>ADD/ADHD should:</u></p> <p>a) pay the 12 employees the \$16,988 for earned compensated time off owed for 2016 and 2017 and provide proof of payment to the Comptroller's Office; and</p> <p>b) keep proper records of each employee's Compensated Time Off accruals, usage, payments.</p>
<p>3 Policy and Procedure Manual Was Not in Compliance with the Nassau County Living Wage and State Laws</p>	<p><u>ADD/ADHD should update their Policy and Procedure Manual to:</u></p> <p>a) state that part-time employees who work 20 or more hours per week are also entitled to proportionate compensated days off;</p> <p>b) include the specific times of the year where ADD/ADHD intends to pay employees compensated time off for hours previously worked and not used; and</p> <p>c) remove the deductions for tardiness from the policy.</p>
<p>4 The Agency Represented that they Issued Three Employees Both Forms W-2 and 1099-MISC in 2016; and 1099-MISC Were Not Filed With the IRS</p>	<p>ADD/ADHD should file corrected 2016 W-2s with the Internal Revenue Service for the three employees who received 1099s.</p>
<p>5 2016 Revenue Reported by ADD/ADHD Was \$237,100 Less than DSS Service Payments of \$1.2 Million</p>	<p><u>ADD/ADHD should:</u></p> <p>a) provide the Comptroller's Office with documentation to explain the difference between revenues reported on the agency's 2016 IRS Form 990 and payments made by Nassau County; and</p> <p>b) provide an update on the 2017 Form 990 Filing.</p>
<p>6 ADD/ADHD Failed to Provide Evidence that Employees Were Screened by the NYS Division of Criminal Justice Services Sex Offender Registry</p>	<p><u>ADD/ADHD should:</u></p> <p>a) ADD/ADHD adhere to all requirements in their MOU with Nassau County, including screening employees before hiring and retaining proof of the screenings;</p> <p>b) ADD/ADHD provide letters of screening to the Department of Social Services for the 20 employees reviewed; and</p> <p>c) the Department of Social Services refer any failure by ADD/ADHD to provide such proof of screening, to the County Attorney for potential breach of ADD/ADHD's MOU with the County.</p>

Executive Summary

The matters covered in this report have been discussed with the officials of the ADD/ADHD Housing Group, Inc. On January 3, 2019 we submitted a draft report to the officials of ADD/ADHD Housing Group, Inc. for their review. ADD/ADHD Housing Group, Inc. provided their response on January 25, 2019. Their response and our follow up to their response are included at the end of this report.

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Introduction

Background

The Nassau County Living Wage Law ensures that employees of certain companies that receive County funds are earning a living wage and are receiving health benefits or a health benefit supplement. Additionally, the law provides that full-time employees receive 12 paid days off a year, and part-time employees who work at least 20 hours per week, receive proportionate compensated days off.²

The Living Wage Rates applicable to the period under review are shown in Exhibit I below:

Exhibit I

Nassau County Living Wage Law Rates			
Effective Dates		Hourly Rates	
From	To	With Benefits	Without Benefits
August 1, 2015	July 31, 2016	\$13.59	\$15.54
August 1, 2016	July 31, 2017	\$13.73	\$15.78
August 1, 2017	July 31, 2018	\$13.98	\$16.07

Nassau County, acting on behalf of the Nassau County Office of Housing & Community and the Department of Social Services (“DSS”), entered into a Memorandum of Understanding (“MOU”) with the ADD/ADHD Housing Group, Inc. to provide Emergency Shelter Facilities to Family (Adult) or Single (Male or Female) in accordance with New York State regulations.³ The current MOU is effective May 1, 2017 through April 30, 2022.

For the three years 2015 through 2017, ADD/ADHD reimbursements for emergency shelter services from DSS were \$1,185,641, \$1,202,102, \$1,159,025, respectively. For 2016 and 2017 ADD/ADHD employed 20 persons.

The ADD/ADHD Housing Group has four properties in Nassau County that provide Emergency Shelter to families and individuals.

It should be noted that after the entrance letter for this audit was sent to ADD/ADHD in February of 2018, the agency submitted a request to the County’s Living Wage Officer to be waived from requirements to pay living wage for calendar year 2017. This retroactive request was denied.

² Miscellaneous Laws of Nassau County- Title 57 – Nassau County Living Wage Law.

³ New York State regulations 18 NYCRR 491 et seq. and 18 NYCRR 900 et seq.

Introduction

Audit Scope, Objectives and Methodology

The objective of the review was to determine whether ADD/ADHD was in compliance with the Nassau County Living Wage Law and related Rules and with the County's Memorandum of Understanding. The review period was January 1, 2016 to December 31, 2017.

To achieve the objectives, we performed the following review procedures:

- Compare the payroll rate of pay with the applicable Living Wage rate;
- Calculate the compensated leave accrued based on 20 or more hours worked in a 40 hour workweek; and
- Test compliance with the County's Memorandum of Understanding.

We believe our review provides a reasonable basis for the findings and recommendations contained herein.

Findings and Recommendations

AUDIT FINDING (1)

(1) Sixteen of the Seventeen Employees Entitled to the Living Wage Rate were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$30,600; and ADD/ADHD Did Not Provide Employee Payroll Time Records to Validate Hours Worked

In order to perform our review, we requested several documents including complete payroll registers for the years 2016 through 2017. A payroll register is a record that includes beginning and ending work dates, pay date, rate per hour, hours worked, gross and net pay. ADD/ADHD instead provided a Payroll Summary Report⁴ for each year. The summary reports, on a pay date (check date) basis, did not include beginning and ending work dates or hourly pay rates for employees.

On April 11, 2018, we requested employee time records of hours worked each day, and for every pay period; however, as of the date of this report, ADD/ADHD has not provided any additional records. As such, we could not link the number of hours shown on the pay date, to the work dates. For the purpose of determining the appropriate Living Wage rate that applied for each payment, the ADD/ADHD Executive Director (“Executive Director”) told us that the pay period was the two weeks prior to the pay date as shown on the payroll summaries. Per the US Department of Labor⁵, the hours worked each day/ total hours each work week is a federally required recordkeeping function to back up each payroll.

Also, as the payroll summaries did not include each employee’s hourly pay rate, we requested the pay rates from ADD/ADHD. The Executive Director told us to calculate the pay rates as follows: *“Please create a column dividing gross amount by number of hours to derive hourly pay rate for each employee ...”* Agencies should provide authentic payrolls not Excel Summary Reports.

We calculated the rate of pay for each employee and compared the hourly rates paid to the applicable Living Wage rate. Since ADD/ADHD did not provide health benefits to its employees, we applied the living wage rate including the health benefit supplement (higher living wage rate).

We found that 16 of the 17 employees entitled to the living wage rate (two managers are salaried), were not paid the applicable living wage rate. We noted the following:

- In 2016, 11 employees were not paid the applicable living wage rate for 13,052 hours amounting to \$14,403; and
- In 2017, 15 employees were not paid the applicable living wage rate for 13,717 hours totaling \$16,197 (10 employees were underpaid in both years).

For the two-year period, 2016-2017, the 16 employees were underpaid an average of \$1.21 per hour, ranging from \$0.04 to \$6.07 per hour.

⁴ A Payroll Summary Report is a quick way to see the payroll totals by employee for a specific period of time.

⁵ US Department of Labor Fact Sheet #21 Recordkeeping Requirements under the Fair Labor Standards Act (FLSA)

Findings and Recommendations

Appendix A lists the 2016 - 2017 underpayments for the 16 employees.

In addition, we noted that 10 employees were paid \$14,700 in 2016 and, five of the same employees, \$2,300 in 2017, without any corresponding hours of work noted for each of the payments. Since the number of hours worked for these employees were not provided, we could not determine if the applicable living wage rate was paid. The 10 employees' range of payments are as follows:

- In 2016, there were 16 instances where the amounts paid to the 10 employees ranged from \$200 to \$9,600; and
- In 2017, there were five instances where the amounts paid ranged from \$200 to \$1,200.

Audit Recommendations:

We recommend that ADD/ADHD:

- a) pay the 16 employees noted in Appendix A, \$30,600 underpaid wages, and submit proof of payment to the Comptroller's Office;
- b) implement a daily employee time reporting process that documents the work dates, start and end times and the total hours worked by each employee every day;
- c) include the pay period beginning and ending dates, the employee hourly pay rates and the actual daily hours worked in the Biweekly payroll records;
- d) provide the Comptroller's Office with an explanation for the 10 employees who were paid without corresponding hours of work noted in the Payroll records.

AUDIT FINDING (2)

(2) Twelve Employees Were Not Granted 1,079 Hours of Earned Compensated Time Off Totaling \$16,988; and ADD/ADHD Did Not Maintain Earned Compensated Time Off Records

The Nassau County Living Wage Law provides that each full-time employee is entitled to 12 paid days off, while part-time employees working at least 20 hours per week receive proportionate compensated days off⁶.

The Executive Director informed the Auditors at the March 6, 2018 Entrance Conference that workers were given compensated time off from work, but no tracking records were kept. As per Section 18 (a) of the MOU, *"The provider shall maintain and retain, for a period of (6) years following the later of termination of or final payment under this agreement, complete and accurate records, documents, accounts and other evidence, whether maintained electronically or manually ("Records"), pertinent to the performance of this agreement."*

⁶ Miscellaneous Laws of Nassau County - Title 57 – Nassau County Living Wage Law

Findings and Recommendations

Based on the analysis of the ADD/ADHD 2016 and 2017 payroll summary reports, we calculated that:

- in 2016, 10 employees were not granted 574 hours of earned compensated time off totaling \$8,966; and
- in 2017, 11 employees were not granted 505 hours of earned compensated time off totaling \$8,022. (9 of the 12 employees were not granted earned compensated time off in both years.)

Summarized below is a brief description of how we determined the amounts owed for each year:

- As the ADD/ADHD biweekly payroll did NOT separate the number of hours worked each week, auditors could not determine if employees worked at least 20 hours in a given work week, thus entitling them to proportionate compensated time off.
- We based our calculation on a 40-hour work week with 80 hours as the measurement for the biweekly accrual.
- As a result, we calculated compensated time off for employees who worked between 40 and 80 hours per biweekly payroll.

Appendix B lists the 2016 - 2017 amounts owed to the 12 employees.

Audit Recommendations:

We recommend that ADD/ADHD:

- a) pay the 12 employees the \$16,988 for earned compensated time off owed for 2016 and 2017 and provide proof of payment to the Comptroller's Office; and
- b) keep proper records of each employee's Compensated Time Off accruals, usage, payments.

AUDIT FINDING (3)

(3) Policy and Procedure Manual Was Not in Compliance with the Nassau County Living Wage and State Laws

In reviewing ADD/ADHD's Policy and Procedure Manual for employees, the following were noted:

- The vacation policy did not state that part-time employees who work 20 or more hours per week are entitled to proportionate compensated days off, as stated in the Living Wage Law⁷.

⁷ Miscellaneous Laws of Nassau County - Title 57 – Nassau County Living Wage Law

Findings and Recommendations

- The policy did not state the specific times of the year when ADD/ADHD intends to pay employees compensated time off for hours previously worked and not used.
- The policy for tardiness states, “If an associate is late to work, they will lose the first 1/2 hour of pay. If they are more than 30 minutes late, they will lose 1-1/2 hours pay.” However, New York State Labor Law Section 193 and New York Codes Rules and Regulations, Part 195-4.5 clearly state that an employer is not allowed to make deductions for tardiness.

Audit Recommendations:

We recommend that ADD/ADHD update their Policy and Procedure Manual to:

- a) state that part-time employees who work 20 or more hours per week are also entitled to proportionate compensated days off;
- b) include the specific times of the year where ADD/ADHD intends to pay employees compensated time off for hours previously worked and not used; and
- c) remove the deductions for tardiness from the policy.

AUDIT FINDING (4)

(4) The Agency Represented that they Issued Three Employees Both Forms W-2 and 1099-MISC in 2016; and 1099-MISC Were Not Filed With the IRS

In 2016, ADD/ADHD informed staff that the agency issued both a W-2 and a 1099-MISC (“1099”) to three of its employees. The Internal Revenue Service (“IRS”) requires entities to provide employees a Form W-2 for income earned. Form 1099-MISC, for the most part, is provided to independent contractors showing the amount an entity paid for services rendered.

The 1099s were purportedly issued to the employees for \$6,000, \$4,800 and \$3,600. The Executive Director explained that the 1099s represented the **below market** rents paid by these employees to ADD/ADHD. He also stated that the employees were former homeless shelter residents that now reside in company-owned housing and pay less than market rent. He said he merely “gave the employees the 1099s and they could file the income if they wish and his plan was not to have them pay more taxes.”

The Living Wage Law explicitly requires that employees be paid the applicable living wage rate and be granted compensated time off, and does not make alternative provisions for employers in lieu of these requirements.

The Comptroller’s Director of Investigations interviewed one of the three employees who received a 1099. The employee stated that she lives in a house owned by the individual who is the Executive Director, pays rent to this individual personally, and does not believe the rent to be discounted below market rate. Moreover, the employee speculated that the 1099 was for “a bonus.”

Findings and Recommendations

Since the employees were receiving W-2s representing wages earned, ADD/ADHD **should have accurately reflected the additional monies on the W-2s as fringe benefit payments, in compliance with IRS regulations.**

Audit Recommendation:

We recommend that ADD/ADHD file corrected 2016 W-2s with the Internal Revenue Service for the three employees who received 1099s.

AUDIT FINDING (5)

(5) 2016 Revenue Reported by ADD/ADHD Was \$237,100 Less than DSS Service Payments of \$1.2 Million

The Auditors did a cursory review of the 2016 Form 990 *Return of Organization Exempt From Income Tax*, and found that the \$965,000 ADD/ADHD reported as Revenue for Homeless Shelter Services was significantly less than the \$1,202,102 paid to ADD/ADHD by DSS.

On July 26, 2018 we requested an explanation for the \$237,102 underreported revenue. ADD/ADHD's response was, *"To my knowledge this is a living wage audit and you have compensation information."* **To date, the Comptroller's Office has not been provided with an explanation for why the revenue the agency reported to the Internal Revenue Service (IRS) in 2016 as payments from Nassau County is hundreds of thousands of dollars less than the total amount paid to the agency by the County. This could be a simple misstatement or purposeful misrepresentation of earnings to the IRS.**

According to the *Performance Monitoring* Section 4 (n) of the MOU with DSS, the provider is required to submit to the DSS Form 990 upon request.

In addition, in accordance with section 18 (a) of the MOU, the provider shall maintain complete and accurate records pertinent to performance under the agreement, and such records *"shall at all times be available for audit and inspection by the Comptroller..."*

Exhibit II below shows amounts DSS paid to ADD/ADHD in 2016 versus the amount ADD/ADHD reported.

Findings and Recommendations

Exhibit II

DSS Payments to ADD/ADHD Compared to Revenue Reported on Form 990 01/01/16 - 12/31/16	
ADD/ADHD Shelters	Amount Paid by DSS
Shelter A	\$ 462,989
Shelter B	\$ 445,733
Shelter C	\$ 293,380
Total DSS Payments to ADD/ADHD	\$ 1,202,102
Revenue Reported by ADHD on Form 990	\$ 965,000
Difference - Underreported	\$ 237,102
<i>Source of Data: Nassau County Department of Social Services And Year 2016 Form</i>	

On May 17, 2018, the Executive Director told us that the 2017 Form 990 has not yet been filed and that the ADD/ADHD is seeking an accounting firm to complete the Form. He stated that upon completion, the Form would be sent to the Comptroller's Office; however, as of the date of this report, we have not received the 2017 Form 990.

Audit Recommendations:

We recommend that ADD/ADHD:

- a) provide the Comptroller's Office with documentation to explain the difference between revenues reported on the agency's 2016 IRS Form 990 and payments made by Nassau County; and
- b) provide an update on the 2017 Form 990 Filing.

Findings and Recommendations

AUDIT FINDING (6)

(6) ADD/ADHD Failed to Provide Evidence that Employees Were Screened by the NYS Division of Criminal Justice Services Sex Offender Registry

On July 20, 2018, the Auditors sent an email to ADD/ADHD requesting letters it should have received from the New York State Division of Criminal Justice Services Sex Offender Registry for each of twenty employees reviewed. Auditors requested that the letters be provided by July 27, 2018, however no evidence was provided.

On July 30, 2018, the auditors sent a reminder email to follow up on the status of our prior request. The Executive Director sent the following email response on July 30, 2018: *“the Nassau County attorney does not consider the MOU a binding contract ...secondly, no shelter in the system would have letters of clearance. Oversight on this issue only began in 2018.”*

In accordance with Section 4 (p) of the 2017 MOU, “the provider shall screen all employees of a family shelter using the New York State Division of Criminal Justice Services Offender Registry and agrees not to hire any person listed on the sex offender registry.”

As this is a shelter that houses families, and no proof of screening was provided, we have no assurance that employees were properly screened and that homeless individuals and/or families are not at risk from employees who are sexual offenders.

Audit Recommendations:

We recommend that:

- a) ADD/ADHD adhere to all requirements in their MOU with Nassau County, including screening employees before hiring and retaining proof of the screenings;
- b) ADD/ADHD provide letters of screening to the Department of Social Services for the 20 employees reviewed; and
- c) the Department of Social Services refer any failure by ADD/ADHD to provide such proof of screening, to the County Attorney for potential breach of ADD/ADHD’s MOU with the County.

Appendix A - Amounts Due to Employees Paid Less Than the Living Wage Rate

ADD/ADHD Housing Group						
Amounts Due Employees Paid Less Than the Living Wage Rate						
2016-2017						
Emp No	2016		2017		Total	
	Hours	Amount	Hours	Amount	Hours	Amount
1	1,061.00	\$ 2,270.34	1,645.50	\$ 3,910.76	2,706.50	\$ 6,181.10
2	1,690.50	\$ 1,876.29	1,954.01	\$ 2,600.07	3,644.51	\$ 4,476.36
3	1,221.03	\$ 1,946.83	1,023.43	\$ 1,960.89	2,244.46	\$ 3,907.72
4	1,349.50	\$ 1,970.65	1,183.50	\$ 1,953.87	2,533.00	\$ 3,924.52
5	1,633.55	\$ 2,844.82	135.50	\$ 241.19	1,769.05	\$ 3,086.01
6	2,110.58	\$ 1,606.03	2,017.00	\$ 1,294.83	4,127.58	\$ 2,900.86
7	1,827.02	\$ 1,519.62	1,644.17	\$ 1,380.95	3,471.19	\$ 2,900.57
8	0.00	\$ -	1,344.00	\$ 1,203.41	1,344.00	\$ 1,203.41
9	1,709.00	\$ 252.08	1,651.00	\$ 641.06	3,360.00	\$ 893.14
10	0.00	\$ -	80.00	\$ 485.60	80.00	\$ 485.60
11	0.00	\$ -	29.75	\$ 180.58	29.75	\$ 180.58
12	0.00	\$ -	80.00	\$ 145.60	80.00	\$ 145.60
13	162.00	\$ 104.76	56.00	\$ 43.68	218.00	\$ 148.44
14	0.00	\$ -	37.50	\$ 96.38	37.50	\$ 96.38
15	196.00	\$ 7.84	836.00	\$ 58.52	1,032.00	\$ 66.36
16	92.00	\$ 3.68	0.00	\$ -	92.00	\$ 3.68
Totals	13,052.18	\$ 14,402.95	13,717.36	\$ 16,197.37	26,769.54	\$ 30,600

Appendix B – Amounts Due to Employees for Earned Compensated Time Off

ADD/ADHD Housing Group						
Amounts Due to Employees for Earned Compensated Time Off						
2016-2017						
Emp No	2016		2017		Total	
	Hours	Amount	Hours	Amount	Hours	Amount
15	88.60	\$ 1,384.85	88.60	\$ 1,407.77	177.20	\$ 2,792.62
2	72.36	\$ 1,130.58	0.00	\$ -	72.36	\$ 1,130.58
7	81.66	\$ 1,276.29	77.73	\$ 1,235.16	159.39	\$ 2,511.45
9	80.57	\$ 1,259.39	75.96	\$ 1,205.87	156.53	\$ 2,465.26
1	45.41	\$ 710.75	71.44	\$ 1,134.78	116.85	\$ 1,845.53
4	60.80	\$ 949.87	53.51	\$ 850.41	114.31	\$ 1,800.28
3	54.50	\$ 851.65	46.49	\$ 740.03	100.99	\$ 1,591.68
5	72.94	\$ 1,139.75	6.11	\$ 96.49	79.05	\$ 1,236.24
8	0.00	\$ -	64.14	\$ 1,019.73	64.14	\$ 1,019.73
17	13.19	\$ 205.56	14.56	\$ 232.03	27.75	\$ 437.59
13	3.69	\$ 57.37	2.58	\$ 40.78	6.27	\$ 98.15
10	0.00	\$ -	3.69	\$ 59.33	3.69	\$ 59.33
Totals	573.72	\$ 8,966.06	504.81	\$ 8,022.38	1,079	\$ 16,988

AUDIT FINDING (1)

(1) Sixteen of the Seventeen Employees Entitled to the Living Wage Rate were Paid Less Than the Living Wage Rate Resulting in Underpayments of \$30,600; and ADD/ADHD Did Not Provide Employee Payroll Time Records to Validate Hours Worked

Audit Recommendations:

We recommend that ADD/ADHD:

- a) pay the 16 employees noted in Appendix A, \$30,600 underpaid wages, and submit proof of payment to the Comptroller's Office;
- b) implement a daily employee time reporting process that documents the work dates, start and end times and the total hours worked by each employee every day;
- c) include the pay period beginning and ending dates, the employee hourly pay rates and the actual daily hours worked in the Biweekly payroll records;
- d) provide the Comptroller’s Office with an explanation for the 10 employees who were paid without corresponding hours of work noted in the Payroll records.

ADD/ADHD’s Response to Recommendation 1

With the approval of the Nassau County Department of social services other shelter providers have a tacit approval to avoid living wage. This is avoidance scheme effected and condoned by the creation of a separate MOU and separate corporation for each shelter facility although under common control. According to Title 57 Corporations with less than 10 employees are exempt from living wage. For the sake of integrity, we avoid this practice.

We do recognize a difference in living wage payments and on 1/22/2019 authorized payments of \$30,600 to employee. The bulk of which were accumulated by night staff and weekend staff who were allowed to sleep in prior MOUs.

Currently these individuals in compliance with the living wage law are now paid the same rate as case workers who provide intake case management facility and staff oversight

We now also use a biometric time keeping system to validate hours.

Auditor’s Follow Up Response to Recommendation 1

We are pleased that ADD/ADHD has paid the 16 employees the \$30,600 due them and provided proof of payments (direct deposit information) to the Comptroller’s Office.

AUDIT FINDING (2)

(2) Twelve Employees Were Not Granted 1,079 Hours of Earned Compensated Time Off Totaling \$16,988; and ADD/ADHD Did Not Maintain Earned Compensated Time Off Records

Audit Recommendations:

We recommend that ADD/ADHD:

- a) pay the 12 employees the \$16,988 for earned compensated time off owed for 2016 and 2017 and provide proof of payment to the Comptroller’s Office; and
- b) keep proper records of each employee’s Compensated Time Off accruals, usage, payments.

ADD/ADHD’s Response to Recommendation 2

Employee payments authorized 1/22/2019. To date only full time employee designated as those working over 40 hours per week were permitted paid vacation and were paid. Evidence of time of request has been sent to the comptroller’s office already. The comptroller’s office has accepted as proof and is already in possession of payroll summary’s (2106 & 2017) for each employee detailing payment hours totals and taxes for each employee and for each pay period as evidence that the employees for which time off request have been provided were in fact paid for.

It worth noting one disgruntled employee was recently terminated for theft time (punching in and then leaving work) disciplinary process documents are available upon request. This employee was paid for vacation in 2016 & 2107 (see her time off sent by email request). She refuses to meet with us for corroborating letters.

Auditor’s Follow Up Response to Recommendation 2

After the Draft report was issued, ADD/ADHD provided the Comptroller’s Office with documentation to support paid time off for four of the 15 employees noted in our original finding/recommendation. (ADD/ADHD provided complete records for 2016 and 2017 for three employees & 2017 records for one employee). Based on our review of the additional documents, we have revised our recommendation as follows:

- a) Pay the remaining **12** employees the **\$16,988** for earned compensated time off owed for 2016 and 2017 and provide proof of payment to the Comptroller’s Office.

We reiterate our recommendation for the ADD/ADHD to keep proper records of each employee’s Compensated Time Off accruals, usage, and payments.

AUDIT FINDING (3)

(3) Policy and Procedure Manual Was Not in Compliance with the Nassau County Living Wage and State Laws

Audit Recommendations:

We recommend that ADD/ADHD update their Policy and Procedure Manual to:

- a) state that part-time employees who work 20 or more hours per week are also entitled to proportionate compensated days off;
- b) include the specific times of the year where ADD/ADHD intends to pay employees compensated time off for hours previously worked and not used; and
- c) remove the deductions for tardiness from the policy.

ADD/ADHD’s Response to Recommendation 3

Corrected notice regarding showing up late for work has been amended.

Auditor’s Follow Up Response to Recommendation 3

We are pleased that the ADD/ADHD has amended its Policy and Procedure Manual to remove the improper time deductions for tardiness; and has included the living wage law requirement with regards to employee Compensated Time Off.

AUDIT FINDING (4)

(4) The Agency Represented that they Issued Three Employees Both Forms W-2 and 1099-MISC in 2016; and 1099-MISC Were Not Filed With the IRS

Audit Recommendation:

We recommend that ADD/ADHD file corrected 2016 W-2s with the Internal Revenue Service for the three employees who received 1099s.

ADD/ADHD’s Response to Recommendation 4

1099 issue is through mutual agreement between the shelter provider and the comptroller’s office inconsequential as 1099s we’re never filed.

Auditor’s Follow Up Response to Recommendation 4

We recommend that the ADD/ADHD do not issue false 1099s in the future, and that all employee compensation be reflected in the W-2.

AUDIT FINDING (5)

(5) 2016 Revenue Reported by ADD/ADHD Was \$237,100 Less than DSS Service Payments of \$1.2 Million

Audit Recommendations:

We recommend that ADD/ADHD:

- a) provide the Comptroller’s Office with documentation to explain the difference between revenues reported on the agency’s 2016 IRS Form 990 and payments made by Nassau County; and
- b) provide an update on the 2017 Form 990 Filing.

ADD/ADHD’s Response to Recommendation 5

DSS does not provide information returns to its shelter vendors detailing the amount paid to the shelter vendors within a fiscal year. The under reporting is to some degree moot as the organization is a 501(C) 3 exempt from federal and state taxes on revenue. We assume the County is in compliance with GASB 6 and using the accrual basis to report payment of liabilities vendors and not cash basis. We attribute the difference to a perhaps timing difference or human error.

Nevertheless, will supply an amended return.

Auditor’s Follow Up Response to Recommendation 5

The Comptroller’s Office has received the ADD/ADHD 2017 Form 990. We are pleased that the 2016 and 2017 Forms 990 were amended to reflect the actual service payments the ADD/ADHD received.

AUDIT FINDING (6)

(6) ADD/ADHD Failed to Provide Evidence that Employees Were Screened by the NYS Division of Criminal Justice Services Sex Offender Registry

Audit Recommendations:

We recommend that:

- a) ADD/ADHD adhere to all requirements in their MOU with Nassau County, including screening employees before hiring and retaining proof of the screenings;

Appendix C – Auditor’s Comments on ADD/ADHD Housing Group, Inc. Response

- b) ADD/ADHD provide letters of screening to the Department of Social Services for the 20 employees reviewed; and
- c) the Department of Social Services refer any failure by ADD/ADHD to provide such proof of screening, to the County Attorney for potential breach of ADD/ADHD’s MOU with the County.

ADD/ADHD’s Response to Recommendation 6

We utilized the registry however there were no “hits” with employee and given that this was not information requesting by DSS in our monthly communication records of no hits seemed irrelevant

However, under OTDA over sight and mandated as of July 2018. All recorded are maintained for each and every new hits even if not a match.

Auditor’s Follow Up Response to Recommendation 6

We are pleased that ADD/ADHD has retroactively screened all of their employees. However, we reiterate the requirement to screen all employees through the NYS Division of Criminal Justice Services Sex Offender Registry and retain all proof of such screening.

ADD/ADHD Housing Group, Inc. responded to the audit findings and recommendations via e-mail, shown below.

----- Original message -----

From: keith.f.cook
Date: 1/25/19 3:43 PM (GMT-05:00)
To: "Greene, Joann F" "Belkin, Bebe"
Subject: Fwd: Response audit

Response to findings

(1)

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We now also use a biometric time keeping system to validate hours

(2)

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Appendix D – ADD/ADHD Housing Group, Inc. Response

It is worth noting one disgruntled employee [REDACTED] was recently terminated for theft time (punching in and then leaving work) disciplinary process documents are available upon request

This employee was paid for vacation in 2016 & 2107 (see her time off sent by email request). She refuses to meet with us for corroborating letters

(3)

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(5)

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(7). 2017 990 to follow this correspondence

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