

PEOPLE OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
LABOR BUREAU

IN THE MATTER OF THE INVESTIGATION
OF LETITIA JAMES, ATTORNEY GENERAL
OF THE STATE OF NEW YORK

ASSURANCE OF
DISCONTINUANCE

OF

AOD No. 22-078

WHITE GLOVE COMMUNITY CARE, INC.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) has investigated WHITE GLOVE COMMUNITY CARE INC. (“White Glove”) pursuant to New York Executive Law § 63(12).

The investigation examined whether White Glove failed to pay wages and benefits under the New York Home Care Worker Wage Parity Act, N.Y. Public Health Law § 3614-c (the “Wage Parity Act” or “WPA”).

This Assurance of Discontinuance (“AOD”) contains the findings in connection with this investigation of White Glove and the relief agreed to by the OAG and White Glove (collectively, the “Parties”).

FINDINGS

Introduction and Background

1. White Glove is a for profit corporation that operates a licensed home care services agency with its principal place of business located at 89 Bartlett Street, Brooklyn, NY 11206. White Glove is an employer within the meaning of the New York Labor Law (“NYLL”) and the

Fair Labor Standards Act (“FLSA”), and a licensed home care services agency within the meaning of the Wage Parity Act.

2. White Glove employs home care aides that provide assistance with activities of daily living to elderly and disabled individuals, primarily individuals who participate in the Medicaid program.

3. The Wage Parity Act established minimum wage and benefit requirements, effective March 1, 2012, for home care aides (“aides”) who render services to Medicaid recipients in New York City and, effective March 1, 2013, for aides who render services in Nassau, Suffolk, and Westchester Counties.

4. Pursuant to the Wage Parity Act, aides who perform Medicaid-reimbursed work are to be compensated either with cash wages that equal the total compensation required under the Wage Parity Act (“Total Compensation”) or with an hourly base wage and a supplemental benefit, which is comprised of an additional wage component and a supplemental wage component, that together equal the Total Compensation.

Practices Related to Payment of Wages

5. White Glove employed between one thousand and two thousand aides per year in the period from March 1, 2012 to December 31, 2018 (the “Relevant Period”).

6. During the Relevant Period, White Glove provided compensation to aides in the form of the hourly base wage and certain benefits, but its contributions and expenditures on the supplemental benefit were less than the amounts required by the Wage Parity Act.

7. White Glove admits to the OAG’s Findings, paragraphs 1 through 6 above.

8. Based on the foregoing, the Attorney General has concluded that White Glove engaged in persistent and repeated illegal acts in violation of Executive Law § 63(12), namely violations of the Wage Parity Act.

9. The OAG finds the relief and agreements contained in this AOD appropriate and in the public interest. THEREFORE, the OAG is willing to accept this AOD pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of Executive Law § 63(12) based on the conduct described above from March 1, 2012 to December 31, 2018.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

Entities Bound By the AOD

10. This AOD binds White Glove, as well as its principals, directors, beneficial owners, officers, shareholders, successors, and assigns.

Compliance with Wage and Hour Law and Other Laws Governing Employment Practices

11. White Glove hereby acknowledges that it understands and will comply with all applicable federal, state, and local laws, including but not limited to the Wage Parity Act, the FLSA and its attendant regulations, and the NYLL and its attendant regulations. White Glove agrees and acknowledges that any violation of such laws during the Effective Period is a violation of this AOD, and that the OAG may commence the civil action or proceeding pursuant to Executive Law § 63(15), in addition to any other appropriate investigation, action, or proceeding, in response to such violations.

12. White Glove agrees to comply with all provisions of the Domestic Workers Bill of Rights, including but not limited to all paid time off as defined in NYLL § 161.

13. White Glove agrees to comply with the notice and records retention requirements set forth in NYLL §§ 195(1)(a), (3), and (4), as amended by Section 2 of part OO of Chapter 56 of the laws of 2020, and will make any such records available to the OAG upon request, including copies of notices to employees of their Wage Parity Act benefits, signed acknowledgements, and wage statements.

Programmatic Relief

14. White Glove will begin to implement the relief described in paragraphs 15 to 17 below within 60 days of the full execution of this AOD (the “Effective Date”) and continue to implement the relief for three years from the effective date (the “Effective Period”).

15. White Glove agrees to revise its policies and practices for Wage Parity Act compliance, including, but not limited to:

- a. Reviewing its compensation package and modifying it, if necessary, to ensure the compensation and benefits provided meet the Total Compensation then in effect;
- b. Providing aides with the Total Compensation required by the Wage Parity Act;
- c. If White Glove elects to satisfy any portion of its Wage Parity Act obligation by providing paid time off to its aides, White Glove will retain contemporaneous records of policies, accruals, usages, and payments to such aides and will provide them to the OAG upon request;
- d. Providing clear, intelligible, and thereby sufficient notice to aides of the compensation it provides, including notice of the benefits it claims as compensation under the WPA regardless of whether White Glove or a third party administers the benefits;

- e. Training its coordinators and personnel in the Human Resources and Payroll Departments on Wage Parity Act compliance, and ensuring that these individuals and any other personnel that regularly interact with aides are familiar with the benefits that White Glove claims as compensation under the WPA, and are able to provide guidance to aides on how to access information about those benefits.

White Glove will submit proposed written policies regarding the requirements set forth in subparagraphs (a) through (e) to the OAG within 60 days of the Effective Date. These proposed policies must be approved by the OAG prior to implementation and training.

16. White Glove will disseminate the written policies set forth in paragraph 15 within 60 days of OAG approval as follows: (1) sending the policies to current White Glove aides via e-mail, if White Glove has the aides' e-mail addresses; (2) sending the policies to current aides by mail; (3) notifying aides by text message that new policies have been issued and will be distributed by regular mail and e-mail, provided that aides have agreed to receive text messages; (4) sending the policies to coordinators, personnel in the Human Resources and Payroll Departments, and individuals who provide trainings to aides via e-mail; and (5) incorporating them into White Glove's handbook. In addition, White Glove will distribute paper copies of the policies during or as part of the trainings described in paragraph 17 or electronic copies if trainings are not in person. The written policies must be disseminated in English, Spanish, and in the language designated by the employee as his/her primary language in the employee's Notice & Acknowledgement of Pay Rate & Payday Form (LS 62).

17. White Glove will conduct trainings that cover the Wage Parity compensation offered by White Glove, including the benefits it claims as compensation under the WPA, to new and existing aides, coordinators, and personnel in the Human Resources and Payroll Departments.

Training for coordinators, and personnel in the Human Resources and Payroll Departments shall be conducted within 60 days of the OAG's approval of the policies described in paragraph 15. Training for new aides shall be provided at orientation. Training for existing aides shall be provided as part of White Glove's in-service training program. White Glove shall incorporate the training required by this Paragraph 17 into its existing in-service training program within 60 days of the OAG's approval of the policies described in paragraph 15, and shall include such component in in-service trainings conducted during the following six months. The trainings will be in person to the extent practical or via web platform and will be conducted in English and Spanish. For aides who do not speak English or Spanish, White Glove will arrange for interpretation or translation services. For aides whose primary language is not English or Spanish, White Glove will provide the training materials in the language designated by the aide as his/her primary language in the employee's Notice & Acknowledgement of Pay Rate & Payday Form (LS 62).

18. Thereafter, White Glove will include information relating to the compensation it provides to aides, including benefits it claims as compensation under the WPA, and distribute the written policies set forth in Paragraph 15, in its orientation of aides at the beginning of their employment and at one in-service training annually.

Monetary Payment and Settlement Distribution

Payments to OAG

19. White Glove agrees to pay \$2,000,000 (two million) dollars within five (5) business days of the Effective Date to the Settlement Administrator in resolution of the OAG's investigation (the "Settled Relief Amount"), which will be distributed to aides as restitution for the violations of the Wage Parity Act from March 1, 2012 to December 31, 2018.

20. White Glove also agrees to pay \$75,000 (seventy-five thousand) dollars within five (5) business days of the Effective Date to the Settlement Administrator to cover the costs related to retaining a settlement administrator and distribution of the Settled Relief Amount. No funds will be returned to White Glove if the settlement administrator costs are less than \$75,000, and any remaining funds will be added to the Settled Relief Amount for distribution to aides.

21. White Glove will provide proof of payment to the New York State Attorney General's Office on the same day it makes the payment to the Settlement Administrator. The payment and all correspondence related to this AOD must reference "AOD No. 22-078":

Settlement Distribution

22. This section of the AOD applies only to the Settled Relief Amount.

23. Definitions: The following terms herein shall have the following meanings:

- a. "Distribution List" means a machine-readable spreadsheet containing the following information for each Eligible Employee: Eligible Employee name, portion of Settlement Payment amount taxable as wages, portion of Settlement Payment amount not taxable as wages, last known address, last known telephone number, last-known email address, social security number, and preferred language.
- b. "Eligible Employee" means each person whom the OAG identifies as eligible to receive part of the Settled Relief Amount.
- c. "Qualified Settlement Fund" or "QSF" means the account established by the Settlement Administrator into which the Settled Relief Amount will be deposited. The QSF will be controlled by the Settlement Administrator subject to the terms of this Agreement. Interest, if any, earned on any monies in the QSF will remain in the QSF.

- d. “Settlement Administrator” means CAC Services Group, LLC. OAG has sole discretion to select the Settlement Administrator and contract for their services. The OAG will similarly have sole discretion to select and contract with a new Settlement Administrator upon a reasonable and good faith determination that the Settlement Administrator has materially failed to carry out its duties pursuant to this AOD.
- e. “Settlement Payment” means the amount of money to be paid to each Eligible Employee from the QSF, which amounts will be set forth on the Distribution List.

24. Before a Settlement Payment is made to Eligible Employees, the Settlement Administrator shall calculate, and White Glove shall pay to the Settlement Administrator, separately and in addition to the Settled Relief Amount, all of the employer’s payroll taxes, including the employer portion of FICA, FUTA, SDI, and any other federal and state payroll taxes arising from any payments classified as wages. The Settlement Administrator will be responsible for payment of such employer payroll taxes to the applicable governmental agencies, will issue IRS W-2 tax forms to each Eligible Employee receiving a Settlement Payment, be responsible for W-3 reporting, and shall provide White Glove with an accounting no later than January 30 of each relevant calendar year of the amount issued and received by Eligible Employees constituting unpaid wages. The OAG is not responsible for any tax withholding, reporting, or other obligations incurred as a result of the distribution from the QSF.

25. The Settlement Administrator shall deposit the Settled Relief Amount into the QSF within 24 hours of receipt.

26. As soon as practicable, OAG will provide the Settlement Administrator with the Distribution List along with the allocation of the Settlement Payment for each person on the Distribution List.

27. Within twenty (20) calendar days of the end of the period for aides to submit their claims for payment and instructions from OAG, the Settlement Administrator will begin to disburse funds from the QSF in accordance with instructions from OAG.

28. The OAG has the sole discretion to reasonably determine which employees shall be eligible for a Settlement Payment and to determine the amount of the Settlement Payment, including the amounts and recipients of any additional distributions of funds from the QSF. No amount shall revert to White Glove.

29. White Glove agrees to provide reasonable cooperation necessary to locate and contact current and former employees who may be eligible for a Settlement Payment, including providing for each worker receiving a Settlement Payment, their last known address, last known telephone number, last-known email address, social security number, and preferred language. White Glove will also provide to current employees any information related to the factual details of the settlement as OAG may request.

30. This AOD will expire on November 22, 2025, except that the OAG may, in its sole discretion, extend the AOD term to three (3) additional years upon a determination that White Glove has not complied with this AOD. Notwithstanding the foregoing, the AOD shall not be extended pursuant to this Paragraph 30 unless the OAG has provided White Glove with notice of the alleged failure to comply and White Glove has failed to timely cure such failure within thirty days after receiving such notice.

Monitoring and Oversight

31. Periodic Compliance Reports: White Glove shall provide to the OAG a report detailing its compliance with the requirements set forth in this AOD, paragraphs 15 to 17 (Programmatic Relief), to be submitted to the OAG within 45 days of OAG approval per paragraph 15. This report shall be in writing and shall set forth in detail the manner and form of compliance with paragraphs 15 to 17 and shall be signed by White Glove.

32. Thereafter, a report of compliance shall be submitted to the OAG every three months for the next three years detailing how White Glove has met its Wage Parity obligations for the previous 3-month period. Along with its quarterly report, White Glove shall submit the following supporting documents to the OAG:

- a. A statement explaining the cost per hour of each benefit White Glove claims as compensation under the Wage Parity Act;
- b. Documents showing the cost per hour of each benefit White Glove claims as compensation under the Wage Parity Act, for example, a copy of the Administrative Services Agreement with a third-party administrator that reflects the per hour contributions made;
- c. A statement of Wage Parity hours and expenses incurred for any benefits White Glove claims as compensation under the Wage Parity Act for the previous three months;
- d. Payroll records reporting company totals for Wage Parity Act hours worked for the previous three months, wages paid for those hours, and, if White Glove chooses to satisfy any portion of its Wage Parity Act obligations by providing paid time off, any paid time off accrued or used by aides, as well as any payouts for paid time off;

- e. Documents reflecting White Glove’s paid time off policies, including its paid sick leave and paid vacation policies; and
- f. Documents sufficient to verify amounts paid by White Glove for any benefits that White Glove claims as compensation under the Wage Parity Act, including but not limited to, health, transit, and 401(k) benefits. Examples of such verification documents include copies of cancelled checks, wire transfers, bank account statements and invoices.
- g. In addition to the materials submitted pursuant to subparagraphs (a) through (f), White Glove shall submit to the OAG when it becomes due to the Managed Long Term Care Plans (“MLTCPs”) with which it contracts, a copy of the materials submitted to the MLTCPs on an annual basis pursuant to N.Y. Pub. Health Law § 3614-c(6), as amended by section 1 of part OO of Chapter 56 of the laws of 2020, to verify compliance with the terms of the Wage Parity Act, including:
 - i. A written verified certification, in which White Glove attests to its compliance with the Wage Parity Act;
 - ii. An annual compliance statement of wage parity hours and expenses on a form provided by the New York Department of Labor; and
 - iii. The independent auditor’s statement verifying White Glove’s Wage Parity hours and expenses on a form provided by the New York Department of Labor.

33. Periodic Certification of Compliance: White Glove shall provide the OAG with a certification affirming its compliance with the requirements set forth in this AOD, paragraphs 15 to 17 (Programmatic Relief), to be submitted to the OAG within 45 days of OAG approval per

paragraph 15. This certification shall be in writing and signed by White Glove. Thereafter, a certification of compliance shall be submitted to the OAG every three months, at the same time as the periodic reports described in paragraphs 31 and 32, for the following three (3) years.

34. Compliance Report or Certification of Compliance on Demand: At any time through the Effective Period of this AOD, upon 30 days' written notice from the OAG, White Glove shall provide the OAG with a compliance report or certification affirming its compliance with the requirements set forth in this AOD, paragraphs 15 to 17 (Programmatic Relief).

35. White Glove expressly agrees and acknowledges that a default in the performance of any obligation under this AOD during the Effective Period is a violation of the AOD, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 9, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the AOD has been violated shall constitute prima facie proof of the statutory violations described in paragraphs 8 pursuant to Executive Law § 63(15). Notwithstanding the foregoing, upon any default in the performance of any obligation during the Effective Period, the OAG shall give White Glove written notice of such default via first class mail and e-mail, which shall be effective three days from the mailing of first class mail, after which White Glove shall have 30 days to cure such default, before the OAG shall commence any such proceeding.

No Retaliation

36. White Glove agrees that it shall comply with NYLL §§ 215 and 740 and shall not in any manner discriminate or retaliate against any of its employees, including but not limited to employees or former employees who cooperated or are perceived to have cooperated with the OAG's investigation of this matter. White Glove agrees not to discharge, refuse to hire, or take any adverse action against any of these employees except for legitimate, non-discriminatory

reasons unrelated to the investigation or to any past, present, or future participation in any activities involving the exercise of their legal rights under the NYLL and New York Codes, Rules, and Regulations.

Ongoing Cooperation

37. White Glove agrees to cooperate with all ongoing requests by the OAG for information related to this investigation and related investigations, and to ensure compliance with this AOD. White Glove also agrees to cooperate fully and truthfully with the OAG's investigations of individuals and entities that are not a party to this AOD. Upon reasonable notice, White Glove shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony. White Glove further agrees to furnish to the OAG, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any investigation of its practices relating to payment of wages described in paragraph 6 that it has undertaken, or that has been performed by another on its behalf. White Glove agrees that the OAG shall have full access to the contact information of its employees to reach them through mail, telephone, or electronic means.

Penalty for Non-Compliance

38. If an OAG inspection shows a material violation of paragraphs 15 to 17 (Programmatic Relief) of this AOD, White Glove agrees to pay \$15,000 in liquidated damages for each category of violation, separate and apart from any other penalty or damages associated with the violation, provided that prior to any assessment of liquidated damages, the OAG provides written notice of such violation via first class mail and e-mail at the address provided in paragraph

50, effective three days after mailing via first class mail, after which White Glove shall have 30 days to cure the violation.

MISCELLANEOUS

Representations and Warranties

39. The OAG has agreed to the terms of this AOD based on, among other things, the representations made to the OAG by White Glove and the OAG's own factual investigation as set forth in paragraphs 1 through 6 above. White Glove represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by White Glove or its counsel are later found to be inaccurate or misleading, this AOD is voidable by the OAG in its sole discretion.

40. No representation, inducement, promise, understanding, condition, or warranty not set forth in this AOD has been made or relied upon by White Glove in agreeing to this AOD.

41. White Glove represents and warrants, through the signatures below, that the terms and conditions of this AOD are duly approved and execution of this AOD is duly authorized.

General Principles

42. Unless a term limit for compliance is otherwise specified within this AOD, White Glove's obligations under this AOD are enduring. Nothing in this AOD shall relieve White Glove of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

43. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that White Glove violates the AOD after the Effective Date.

44. This AOD may not be amended except by an instrument in writing signed on behalf of the parties to this AOD.

45. In the event that any one or more of the provisions contained in this AOD shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this AOD.

46. White Glove acknowledges that it has entered this AOD freely and voluntarily and upon due deliberation with the advice of counsel.

47. This AOD shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

48. The AOD and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

49. The Effective Date of this AOD shall be November 22, 2022. The end date shall be November 22, 2025.

50. All notices, reports, requests, and other communications to any party pursuant to this AOD shall be in writing and shall be directed as follows:

From White Glove to the Attorney General:

New York State Office of the Attorney General
Anielka Sanchez Godinez, Assistant Attorney General
Labor Bureau
28 Liberty Street, 15th Floor
New York, New York 10005

Or

Anielka.SanchezGodinez@ag.ny.gov

From the Attorney General to White Glove:

Jennie L. Shufelt, Esq.
Hinman Straub, PC
121 State Street
Albany, NY 12207

Or

jshufelt@hinmanstraub.com

Any changes in the person to whom communications should be specifically directed shall be made by e-mail in advance of the change.

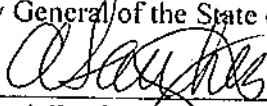
51. This AOD may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, this AOD is executed by the parties hereto on November 22, 2022.

LETITIA JAMES

Attorney General of the State of New York

By:


Anielka Sanchez Godinez

Kristen Ferguson

Assistants Attorney General

Labor Bureau

28 Liberty Street, 15th Floor

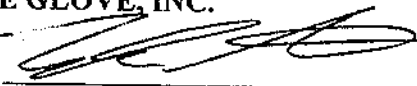
New York, New York 10005

Phone: (212) 416-6280

Date: November 22, 2022

WHITE GLOVE, INC.

By:


Name: MOSHE ST. AELSTHERSEY

CEO

Title

11-22-22

Date

PEOPLE OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
LABOR BUREAU

IN THE MATTER OF THE INVESTIGATION
OF LETITIA JAMES, ATTORNEY GENERAL
OF THE STATE OF NEW YORK

AMENDMENT TO
ASSURANCE OF
DISCONTINUANCE

OF

AOD No. 22-078

WHITE GLOVE COMMUNITY CARE, INC.

AMENDMENT TO ASSURANCE OF DISCONTINUANCE

WHEREAS, the Office of the Attorney General of the State of New York (“OAG”) entered into Assurance of Discontinuance No. 22-078 (the “Assurance”) with White Glove Community Care, Inc. (“White Glove”) on November 22, 2022 to settle the OAG’s investigation of White Glove for failure to pay wages and benefits under the New York Home Care Worker Wage Parity Act, N.Y. Public Health Law § 3614-c (the “Wage Parity Act”).

WHEREAS, Paragraph 44 of the Assurance states that the Assurance may be amended by an instrument in writing signed on behalf of all the parties to the Assurance;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between White Glove and the OAG (collectively, the “Parties”), as follows:

1. Paragraph 19 of the Assurance is amended to read as follows: White Glove agrees to pay to the Settlement Administrator \$2,000,000 (two million) dollars within five (5) business days of its counsel’s receipt of payment instructions in resolution of the OAG’s investigation (the “Settled Relief Amount”), which will be distributed to aides as restitution for the violations of the Wage Parity Act from March 1, 2012 to December 31, 2018.

2. Paragraph 20 of the Assurance is amended to read as follows: White Glove also agrees to pay to the Settlement Administrator \$75,000 (seventy-five thousand) dollars within five (5) business days of its counsel's receipt of payment instructions to cover the costs related to retaining a settlement administrator and distribution of the Settled Relief Amount. No funds will be returned to White Glove if the settlement administrator costs are less than \$75,000, and any remaining funds will be added to the Settled Relief Amount for distribution to aides.

3. White Glove represents and warrants, through the signatures below, that the terms and conditions of this Amendment are duly approved, and execution of this Amendment is duly authorized.

4. White Glove remains bound by all other terms of the Assurance.

IN WITNESS WHEREOF, this Amendment is executed by the parties hereto on December 8, 2022.

LETITIA JAMES

Attorney General of the State of New York

By: 

Anielka Sanchez Godinez

Kristen Ferguson

Assistant Attorneys General

Labor Bureau

28 Liberty Street, 15th Floor

New York, New York 10005

Phone: (212) 416-6280

Date: December 8, 2022

**WHITE GLOVE COMMUNITY CARE,
INC.**

By: 

Moshe Stareshefsky

CEO
Title

12/08/22
Date
