

**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**

Assurance No. 23-065

OF

**ALLIED UNIVERSAL SECURITIES
SERVICES, INC.
and BOARD OF MANAGERS OF
540 WEST 28TH STREET
CONDOMINIUM**

The Office of the Attorney General of the State of New York (“OAG”) has investigated Universal Protection Service, LLC (d/b/a Allied Universal Security Services) (“Allied Universal”) and the Board of Managers of the 540 West 28th Street Condominium (the “Board of Managers”) pursuant to its authority under Executive Law § 63(12). Allied Universal and the Board of Managers are collectively referred to herein as “Respondents.”

The investigation examined Respondents’ alleged violations of Real Property Tax Law §421-a(8) (“Section 421-a(8)”) involving the misclassification of certain building service employees and the failure to pay prevailing wages to these employees. These employees were classified as Unarmed Security Guards and employed by Allied Universal under contract with the 540 West 28th Street Condominium in New York City as required by Real Property Tax Law §421-a(8).

This Assurance of Discontinuance (“Assurance”) contains the OAG’s findings in connection its investigation and the relief agreed to by the OAG and Respondents (collectively, the “Parties”).

FINDINGS

1. Allied Universal is an American private security and staffing company, based in Conshohocken, Pennsylvania and Irvine, California that provides security services to a number of clients across the United States and in New York, including residential real property.

2. The 540 West 28th Street Condominium (the “Condominium”) is a 91-unit, 13-story condominium completed in or about 2009 and located in the West Chelsea district of New York City.

3. The Board of Managers has the responsibility of managing the affairs, property and assets of the Condominium and ensuring that the Condominium complies with applicable law.

4. Pursuant to Real Property Law §421-a, certain newly-constructed multiple dwellings in the City of New York were eligible for a partial exemption from local property taxes. As a result, building service employees working at the Condominium were required to be paid prevailing wages during the period the exemption was in effect. In 2011, the sponsor of the condominium offering applied for and received a §421-a partial tax exemption. The §421-a exemption ended in June 2021.

5. The Board of Managers contracted with Allied Universal in or about January 2011 to supply certain building service employees at the Condominium.

6. Allied Universal was required, pursuant to Real Property Law § 421-a(8), to pay prevailing wages to the workers it classified as Unarmed Security Guards employed at the Condominium. Such workers constituted “building service employees” as defined in that section, which applies to any person who is regularly employed at a building who performs work in connection with the care or maintenance of such building, including, but not limited to, watchmen, guards, and doormen.

7. From September 2016 to February 2019 Allied Universal failed to pay employees designated as Unarmed Security Guards supplemental benefit payments owed to them under the Building Service Employee Prevailing Wage Schedule established by the New York City Office of the Comptroller (the “NYC Prevailing Wage Schedule”).

8. Under Rules of the City of NY, Title 28, Section 50-04(d), the building’s owner, here the Board of Managers, is “jointly liable for any violation of [Section 421-a(8)] at the property receiving Benefits without regard to whether the Building Service Employees were directly employed by such Owner.”

9. Allied Universal’s failure to pay employees designated as Unarmed Security Guards the supplemental benefit payments they were owed violated Real Property Law §421-a and Executive Law §63(12).

10. Respondents do not contest the findings contained in this Assurance.

11. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. **THEREFORE**, the OAG is willing to accept this Assurance 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 through the date of this Assurance.

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

12. Entities Bound by the Assurance. This Assurance binds Allied Universal and the Board of Managers as well as their principals, beneficial owners, shareholders, successors, and assigns.

MONETARY PAYMENT

13. Allied Universal agrees to pay \$229,718.43 (two hundred and twenty-nine thousand seven hundred eighteen dollars and forty-three cents) (the “Settlement Amount”) in resolution of the Matter within 45 days of the Effective Date of this Assurance. OAG shall provide Allied Universal with details for the payment within 15 days after the Effective Date (as defined in Paragraph 34, *infra*). The payment and all correspondence related to this Assurance must reference “Assurance No. 23-065.”

14. The Settlement Amount will be paid to the OAG, and the entirety of it will be distributed as restitution for alleged violations of the laws specified above to

former Allied Universal employees who were classified as Unarmed Security Guards from September 2016 to February 2019 (the “Former Employees”).

15. Respondents will provide to the OAG within 30 days of the Effective Date all information necessary to locate and contact the Former Employees including providing for each their last known address, last known telephone number, last-known email address, and social security number.

CERTIFICATION OF COMPLIANCE AS TO ALLIED ONLY

16. Allied Universal currently has contracts to provide security services at the following properties located in the City of New York that may qualify for the tax exemption under Real Property Law §421-a, and thus may require payment of prevailing wage to building service employees assigned to the property (collectively, the “Section 421-a Properties”):

- a. 1787 Madison Avenue, NY, NY 10035
- b. 252 South Street, NY, NY 10002
- c. 490 Myrtle Avenue, Brooklyn, NY 11205
- d. 475 Sterling Place, Brooklyn, NY 11238

17. Allied Universal shall provide to the OAG within 60 days of the Effective Date, and on an annual basis thereafter during the term of this Assurance, an affidavit affirming that the company conducted an internal audit of its payment practices at the Section 421-a Properties and that Allied Universal is in compliance with the requirement to pay prevailing wage to building service employees,

including all supplemental benefits, in accordance with the NYC Prevailing Wage Schedule, if applicable to the specific site. Allied Universal shall provide all supporting information requested by the OAG relevant to support such certification.

MISCELLANEOUS

Representations and Warranties

18. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to OAG by Respondents during the OAG's investigation and the OAG's own factual investigation as set forth in its findings set forth in paragraphs 1 to 9 above. Each Respondent represents and warrants that it has not made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondents are later found to be inaccurate or misleading as to 540 West 28th Street Condominium, this Assurance is voidable by the OAG in its sole discretion, as to the party responsible for the representation. If any material representations by Allied Universal are later found to be inaccurate or misleading as to any property other than 540 West 28th Street Condominium, this Assurance is voidable by the OAG, as to Allied only, in its sole discretion.

19. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Respondents in agreeing to this Assurance.

20. Each of the Respondents represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized by it.

Effects of Assurance

21. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondents. Respondents shall include in any such successor, assignment or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

22. Respondents expressly agree and acknowledge that a default in the performance of any obligation hereunder is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 11, in addition to any other appropriate investigation, action, or proceeding, concerning the subject matter of the OAG's investigation, including but not limited to allegations that Allied Universal misclassified its employees as Unarmed Security Guards.

23. Any failure by the OAG to insist upon the strict performance by Respondents of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall

have the right thereafter to insist upon the strict performance of any and all provisions of this Assurance to be performed by Respondents.

Subsequent Proceedings

24. Respondents expressly agree and acknowledge that in the event the OAG initiates a subsequent investigation, civil action, or proceeding to enforce this Assurance, for a default of the Assurance as provided in Paragraph 22, or if the Assurance is voided as provided in Paragraph 18:

- a. any statute of limitations or other time-related defenses are tolled from and after the Effective Date of this Assurance and until the date on which the Assurance is voided;
- b. the OAG may use statements, documents, or other materials produced or provided by Respondents prior to or after the Effective Date except for settlement communications;
- c. any civil action or proceeding will be adjudicated by the courts of the State of New York, and that Respondents irrevocably and unconditionally waive any objection based upon personal jurisdiction, inconvenient forum, or venue; and
- d. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

25. If a court of competent jurisdiction determines that either of the Respondents has violated the Assurance, the responsible Respondents shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

Tolling Agreement

26. The Parties agree that the Parties' agreement tolling the statute of limitations dated May 24, 2023 as subsequently extended by the Parties was extended until the Effective Date.

General Principles

27. Respondents' obligations under this Assurance shall remain in force for three years from the Effective Date. Nothing in this Assurance shall relieve Respondents of any obligations imposed by any applicable state or federal law or regulation or other applicable law.

28. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that Respondents violate the Assurance or if this Assurance is voided after its Effective Date.

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

30. In the event that any one or more of the provisions contained in this Assurance 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 Assurance.

31. Respondents acknowledge that they have entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

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

33. This Assurance shall not be interpreted in favor or against either Party on account of such Party's counsel having drafted this Assurance.

34. The effective date of this Assurance shall be March 21, 2024 (referred to herein as the "Effective Date").

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

The OAG:

Lawrence J. Reina
New York State Office of the Attorney General
Assistant Attorney General, Labor Bureau
28 Liberty Street, 15th Floor
New York, NY 10005
or Lawrence.Reina@ag.ny.gov

Allied Universal:

Helene Baxter
VP, Corporate Employment Counsel
1395 University Blvd
Jupiter, FL 33458
Helene.Baxter@aus.com
(561) 714-2239

The Board of Managers:

Kimberly Hoover
Board of Managers of the 540 West 28th Street Condominium
President of the Board of Managers
540 West 28th Street
New York, NY 10001
Kalbertson49@gmail.com

With a copy to:

Howard Schechter, Esq.
Armstrong Teasdale LLP
7 Times Square, 44th Floor
New York, NY 10036
HSchechter@atllp.com

36. Any changes in the person to whom communications should be specifically directed shall be made in writing in advance of the change.

37. This Assurance may be electronically signed, and any electronic signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

38. This Assurance may be executed in 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 Assurance is executed by the parties hereto as of
March 21, 2024.

**LETITIA JAMES
ATTORNEY GENERAL
STATE OF NEW YORK**



Lawrence J. Reina
Assistant Attorney General
Office of the New York Attorney General
Labor Bureau

ALLIED UNIVERSAL

Helene Baxter
VP, Corporate Employment Counsel

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President of the Board of Managers

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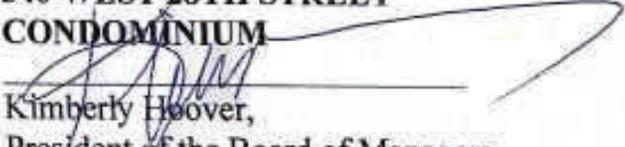
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