

STATE OF NEW YORK: DEPARTMENT OF LABOR  
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In the Matter of

PEC GROUP OF N.Y., INC., and PAULINE  
CHAHALES, as an officer and/or shareholder  
of PEC GROUP OF N.Y., INC.,

Prime Contractor,

for a determination pursuant to Article 9 of the  
Labor Law as to whether prevailing wages and  
supplements were paid to or provided for the  
building service employees employed on  
a public work contract providing security  
services for City Hall, in the City of Newburgh,  
County of Orange, New York.

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for a determination pursuant to Article 9 of the  
Labor Law as to whether prevailing wages and  
supplements were paid to or provided for the  
building service employees employed on  
a public work contract for Westchester County  
Department of Public Works and Transportation,  
County of Westchester, New York.

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**DEFAULT REPORT &**  
**RECOMMENDATION**

Prevailing Rate Case  
No.: 2013900970  
Case ID: PW072016009770  
Orange County

Prevailing Rate Case  
No.: 2014900999  
Case ID: PW072016009147  
Westchester County

To: Honorable Roberta Reardon  
Commissioner of Labor  
State of New York

Pursuant to a Notice of Hearing issued by the Commissioner of Labor on March 9, 2021, a videoconference hearing was held on May 6, 2021, in Albany, New York with participating parties and witnesses located at various other locations. The purpose of the hearing was to provide all parties an opportunity to be heard on the issues raised in the Notice of Hearing and to establish a record from which the Hearing Officer could prepare this Report and Recommendation for the Commissioner of Labor.

The hearing concerned an investigation conducted by the Bureau of Public Work ("Bureau") of the New York State Department of Labor ("Department") into whether PEC Group of N.Y., Inc., and Pauline Chahales, as an officer and/or shareholder of PEC Group of N.Y., Inc., (hereafter known as "Respondents"), complied with the requirements of Article 9 of the Labor Law (§§ 230 *et seq.*) to pay or provide the prevailing rates of wages and supplements to building service employees employed in the performance of two separate public building service contracts. The first captioned matter involved a building service contract between Respondents and City of Newburgh ("Newburgh") for the unarmed security services at the Newburgh City Hall ("Project 1"). The second captioned matter involved a building service contract between Respondents and Westchester County ("Westchester") for the unarmed security services at Westchester County Department of Public Works and Transportation in Westchester County, New York ("Project 2").

### **HEARING OFFICER**

Marshall H. Day was designated as Hearing Officer and conducted the hearing in this matter.

### **APPEARANCES**

The Bureau was represented by Department Acting Counsel, Jill Archambault, (Larissa Bates, Senior Attorney, of Counsel).

There was no appearance made by, and on behalf of the Respondents.

### **FINDINGS AND CONCLUSIONS**

On March 22, 2021, the Department duly served a copy of the Notice of Hearing on Respondents, via regular and certified mail, return receipt requested (Hearing Officer Exs. 2, 3). The Notice of Hearing scheduled a hearing on May 6, 2021 and required the Respondents to serve an Answer at least fourteen days in advance of the scheduled hearing.

Respondents failed to file an Answer to the charges contained in the Notice of Hearing or to appear at the hearing. Consequently, Respondents are in default in this proceeding.

The Notice of Hearing alleges that Respondents willfully failed to pay prevailing wages and supplemental benefits to its workers performing security services pursuant to the public building service contracts with the named Department of Jurisdictions during the claim periods.

At the hearing, the Department produced substantial and credible evidence, including the sworn testimony of the Bureau investigator and documents describing the wage and supplemental underpayments, which supported the Bureau's charges that:

Both projects were subject to Labor Law Article 9; and

#### **Project No. 1**

PEC Group of N.Y., Inc., entered into a building service contract with Newburgh for unarmed security services on Project 1, PRC No. 2013900970; and

PEC Group of N.Y., Inc., willfully underpaid \$4,387.20 to its workers for the audit period weeks ending October 16, 2016 through week ending October 30, 2016; and

#### **Project No. 2**

PEC Group of N.Y., Inc., entered into a building service contract with Westchester for unarmed security services on Project 2, PRC No. 2014900999; and

PEC Group of N.Y., Inc. willfully underpaid \$28,733.11 to its workers for the audit period weeks ending January 25, 2015 through the week ending November 8, 2015; and

## GENERAL

Pauline Chahales is an officer and shareholder of PEC Group of N.Y., Inc.; and

Pauline Chahales as an officer knowingly participated in the violation of Labor Law Article 9; and

Respondent, PEC Group of N.Y., Inc., is an incorporated business owned by Pauline Chahales, who is an officer (President) and shareholder of PEC Group of N.Y., Inc.<sup>1</sup>; and

The Bureau used certified payrolls (when available), emails and the PW-4 claim forms submitted by workers to determine the days and hours worked and rates paid for each employee, and compared these rates with the prevailing wage schedule applicable in the county at issue for the rates that should have been paid, to ultimately determine the amount of unpaid prevailing wages and supplements due to the workers<sup>2</sup>; and

The Respondents were an experienced public work contractor, who have thirteen total open cases for labor law violations currently under investigation by the Bureau.<sup>3</sup> Respondents did initially provide some payroll information during the investigation, however as the investigation progressed failed to offer any evidence of payment of the supplemental benefits or missing wages that were owed to its workers. Respondent PEC Group of N.Y., Inc., was a large size employer who had multiple service contracts running at the same time. The gravity of Respondents' violations was severe, as the Respondents stopped paying their employees the wages and supplements owed for the last three weeks of work on Project 1, and Respondents failed to pay the proper overtime wage rates and underpaid or didn't pay supplemental benefits on Project 2. I find the totality of the evidence sufficient to support the Department's request

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<sup>1</sup> The contracts and the NYS Department of State printout (Department Exs. 4 and 16, and 12, respectively) indicates that Ms. Chahales is president and chief executive officer of PEC Group of N.Y., Inc., and previous default hearings against this same individual disclosed Ms. Chahales was the sole shareholder of the corporation as well.

<sup>2</sup> According to the claim forms associated with Project 1 (Department Exs. 1 and 2), the Respondents failed to pay its workers for their last three weeks of work. The audit detail outlines the days and hours worked by each individual employee during this period of non-payment, outlines what wages and supplemental benefits should have been paid, and gives zero credit to the Respondents for wages and supplements paid during that time. On Project 2, the certified payrolls (Department Ex 20) show that the workers were paid wages for all hours worked, but did not receive or were underpaid supplemental benefits, and did not receive the proper overtime rate outlined in wage schedule which generated additional wages due (paid straight time for all hours worked). The investigator used the days, hours and wages contained in the certified payrolls, in conjunction with the supplemental and overtime wage rates listed in the wage schedule to determine the supplements and wages owed to those workers during the time the certified payrolls were maintained.

<sup>3</sup> This is the fourth default hearing held against this contractor to date.

that the Commissioner assess a 25% civil penalty on the underpayments and interest assessed in this case, and based on the same totality of evidence, that 16% interest per annum be assessed on all underpayment of wages and supplemental benefits due as well.

For the foregoing reasons, the findings, conclusions and determinations of the Bureau should be sustained.

### **RECOMMENDATIONS**

Based upon the default of the Respondents in answering or contesting the charges contained in the Department's Notice of Hearing, and upon the sworn and credible testimonial and documentary evidence adduced at hearing in support of those charges, and based on the record as a whole, I recommend that the Commissioner of Labor make the following determinations and orders in connection with the issues raised in this case:

DETERMINE that Respondents, PEC Group of N.Y., Inc, underpaid prevailing wages and supplemental benefits its workers in the amount of \$4,387.20 on the Project 1, PRC No. 2013900970; and

DETERMINE that Respondents, PEC Group of N.Y., Inc, underpaid prevailing wages and supplemental benefits its workers in the amount of \$28,733.11 on the Project 2, PRC No. 2014900999; and

DETERMINE that Pauline Chahales is an officer, chief executive officer and shareholder of PEC Group of N.Y., Inc., who owned or controlled at least ten per centum of the outstanding stock of PEC Group of N.Y., Inc.; and

DETERMINE that Pauline Chahales was the owner and officer of PEC Group of N.Y., Inc. who knowingly participated in the violation of Labor Law article 9 on the two Projects at issue; and

DETERMINE that on each of the two projects the failure of PEC Group of N.Y., Inc., to pay the prevailing wage or supplement rates was a separate and distinct "willful" violation of Labor Law article 9; and

DETERMINE that as a result of PEC Group of N.Y., Inc., and Pauline Chahales' knowing willful participation in in the violation of Labor Law article 9 on the two projects, both the entity and the individual are ineligible to submit a bid, on or be awarded any public contract with the state, any municipal corporation or public body for a period of five years; and

DETERMINE that Respondents are responsible for any underpayment of wages or supplemental benefits determined to be owed on the two projects; and

DETERMINE that based on the statutory factors set forth in Labor Law article 9, Respondents are responsible for interest on the total underpayments on the two projects at the statutorily mandated rate of 16% per annum from the date of underpayment to the date of payment; and

DETERMINE that based on the statutory factors set forth in Labor Law article 9, Respondents be assessed a civil penalty in the Department's requested amount of 25% of the underpayment and interest due on the two projects; and

ORDER that the Bureau compute the total amount due on each of the two projects, (interest accrued at 16% interest from date of underpayment to the date of payment and 25% civil penalty); and

ORDER that the Bureau compute and pay the appropriate amount due for each employee on all two projects, and that any balance of the total amount due shall be forwarded for deposit to the New York State Treasury.

Dated: June 25, 2021  
Albany, New York

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Marshall H. Day".

Marshall H. Day, Hearing Officer