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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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July 2, 2012

The Honorable Hilda Solis  
Secretary of Labor  
United States Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210

Dear Secretary Solis:

The Committee on Oversight and Government Reform is conducting oversight of federal funding associated with the Restaurant Opportunities Center United (ROC) and its affiliates. As part of this investigation, I am writing to request documents and information relating to the Department of Labor's (DOL) support of ROC.

ROC was initially founded after September 11, 2001, to "provide support to restaurant workers displaced as a result of the World Trade Center tragedy."<sup>1</sup> Over the years, however, ROC has transformed into a robust organization with a mission "to improve wages and working conditions for the nation's low-wage restaurant workforce."<sup>2</sup>

According to numerous media reports, ROC targets restaurants that it believes have subpar safety or workplace conditions and demands that the restaurant pay a monetary award.<sup>3</sup> When a restaurant resists these demands, ROC organizes large protests outside the restaurant, harasses patrons who want to enter and eat in the restaurant, and even places giant inflatable cockroaches outside of the restaurant.<sup>4</sup> In one example, ROC repeatedly harassed celebrity Chef Mario Batali's restaurant in New York City, forcing Mr. Batali to obtain a restraining order against ROC.<sup>5</sup>

<sup>1</sup> Restaurant Opportunities Center United, Our History. Available at <http://rocunited.org/about-us/our-history/> (last visited April 24, 2012).

<sup>2</sup> Restaurant Opportunities Center United, About Us. Available at <http://rocunited.org/about-us/> (last visited April 24, 2012).

<sup>3</sup> See, e.g., Kim Severson and Adam Ellick, "A Top Chef's Kitchen is Far too Hot, Some Workers Say," *The New York Times*, January 17, 2007. Available at: <http://www.nytimes.com/2007/01/17/dining/17prom.html?pagewanted=all>.

<sup>4</sup> *Id.*

<sup>5</sup> "Darden Discrimination Suit Filed by Restaurant Opportunities Center United," *The Huffington Post*, February 6, 2012. Available at: [http://www.huffingtonpost.com/2012/02/06/darden-discrimination-suit\\_n\\_1257293.html](http://www.huffingtonpost.com/2012/02/06/darden-discrimination-suit_n_1257293.html).

In addition to its protests against restaurants, ROC operates a restaurant in New York City with a troubling history of poor sanitation. Over the past two years, ROC's "Colors Restaurant" has been cited for serious health and sanitation violations. According to the New York City Department of Health and Mental Hygiene (Health Department), inspectors found evidence of "mice or live mice present in facility's food and/or non-food areas;" "food contact surface not properly washed, rinsed and sanitized;" "hand washing facility not provided in or near food preparation area and toilet room;" "wiping cloths soiled or not stored in sanitizing solution;" and "food not protected from potential source of contamination during storage, preparation, transportation, display or service."<sup>6</sup> Many of these violations—all categorized as "*critical violations*"—occurred on multiple Health Department visits.<sup>7</sup> (emphasis added).

Despite ROC's purported mission to improve wages and working conditions for restaurant workers and its frequent public protestations of other restaurants, ROC and its Colors Restaurant have a history of disputes over wages. Several ROC members sued ROC because the organization allegedly promised them an ownership stake in Colors Restaurant if they contributed free labor, but ROC did not live up to the promise. In federal court, these ROC members argued that ROC promised them partial ownership in Colors Restaurant if they gave 100 hours of free labor (or "sweat equity" as ROC described it) before the restaurant opened; this work included "catering, cooking, serving, set-up, clean-up, shopping, and driving."<sup>8</sup> ROC argued that these workers were "members" of ROC and not "employees" and thus performed their work "with no expectation of compensation."<sup>9</sup> Orlando Godoy, a former employee who sued ROC, stated that ROC "used us and many others to perform hundreds of hours of unpaid work to raise money and promote its name and the co-op restaurant project. They even had us kick back our tips when we worked at parties and events as cooks and waiters."<sup>10</sup> While the Court eventually agreed with ROC's legal argument, the situation caused one former employee to label Colors Restaurant as "one of the most abusive [restaurants] in the city."<sup>11</sup>

Despite ROC's own health, safety, and worker relations woes, DOL has supported ROC and awarded the group federal funds to promote worker safety and awareness of their rights as employees. In 2009, DOL awarded ROC a \$275,000 grant<sup>12</sup> under the Susan Harwood program,

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<sup>6</sup> These violations come from inspections by the New York City Department of Health and Mental Hygiene on April 8, 2010, May 6, 2011, June 22, 2011, October 5, 2011, March 1, 2012, and March 14, 2012. See: "Restaurant Inspection Information," New York City Department of Health and Mental Hygiene. Available at: <http://www.nyc.gov/html/doh/html/rii/index.shtml>.

<sup>7</sup> *Id.*

<sup>8</sup> Orlando Godoy, et al., Plaintiffs, v. RESTAURANT OPPORTUNITY CENTER OF NEW YORK, INC., et al., Defendants.

<sup>9</sup> *Id.*

<sup>10</sup> Daren Gregorian, "Workers Sue 'WTF' Eatery as a Sham," *New York Post*, July 25, 2007. Available at: [http://www.nypost.com/p/news/regional/item\\_eVUj2Ak1pqlmrgIdUpbakK;jsessionid=5E30241547F1CF9F5554E93428E142DD](http://www.nypost.com/p/news/regional/item_eVUj2Ak1pqlmrgIdUpbakK;jsessionid=5E30241547F1CF9F5554E93428E142DD).

<sup>11</sup> Tom Elliott, "'Social Justice' Hypocrites," *New York Post*, March 22, 2007. Available at: [http://www.nypost.com/p/news/opinion/opedcolumnists/item\\_6hT516aUFQpglJLPWB6zXJ/0](http://www.nypost.com/p/news/opinion/opedcolumnists/item_6hT516aUFQpglJLPWB6zXJ/0).

<sup>12</sup> "Prime Award Spending Data," USASpending.gov. Available at: [http://usaspending.gov/search?form\\_fields=%7B%22search\\_term%22%3A%22%5C%22restaurant+opportunities+center%5C%22%22%7D](http://usaspending.gov/search?form_fields=%7B%22search_term%22%3A%22%5C%22restaurant+opportunities+center%5C%22%22%7D).

which focuses on providing “training and education for workers and employers on the recognition, avoidance, and prevention of safety and health hazards in their workplaces, and to inform workers of their rights and employers of their responsibilities under the OSH Act.”<sup>13</sup> Assistant Secretary of Labor William Spriggs spoke at a ROC conference about working conditions for restaurant employees in Washington, D.C. in February 2011.<sup>14</sup> In October 2011, DOL’s Occupational Safety and Health Administration (OSHA) established “an alliance” with ROC “to foster safer and more healthful American workplaces.”<sup>15</sup> According to OSHA’s press release, this alliance “will create products including fact sheets and a safety and health booklet.”<sup>16</sup> Additionally, in November 2011, you held an event at DOL on issues facing restaurant workers where you personally introduced the founder of ROC.<sup>17</sup>

ROC’s history of intimidation towards opponents and management problems with its own restaurant raises significant questions about why DOL decided to form an alliance with and provide federal funding to the organization. To help the Committee better understand DOL’s support of ROC, please answer the following questions and provide the following documents, in electronic format, no later than 5 p.m. on July 9, 2012:

1. Was DOL/OSHA aware that ROC’s Colors Restaurant had been cited for numerous health violations by the New York City Department of Health and Mental Hygiene when it decided to form an alliance with ROC “to promote safer, more healthful workplaces?”<sup>18</sup>
2. All documents and communications between or among DOL personnel and ROC personnel referring or relating to DOL’s OSHA alliance with ROC.<sup>19</sup>
3. All documents and communications between or among DOL personnel and ROC personnel referring or relating to health violations at any ROC affiliated establishments.

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<sup>13</sup> “Susan Harwood Training Grant Program,” United States Department of Labor. *Available at:* <http://www.osha.gov/dte/sharwood/index.html>.

<sup>14</sup> Jose Oliva, “Three New Reports on Conditions of Restaurant Workers in Los Angeles, Miami and Washington, DC to be Released on Valentine’s Day,” ROC United, February 8, 2011. *Available at:* <http://rocunited.org/three-new-reports-on-conditions-of-restaurant-workers-in-los-angeles-miami-and-washington-dc-to-be-released-on-valentine%E2%80%99s-day/>.

<sup>15</sup> “Agreement Establishing an Alliance between the Occupational Safety and Health Administration U.S. Department of Labor and Restaurant Opportunities Centers United,” United States Department of Labor, October 20, 2011. *Available at:* [http://www.osha.gov/dcsp/alliances/roc/roc\\_final.html](http://www.osha.gov/dcsp/alliances/roc/roc_final.html).

<sup>16</sup> “New OSHA Alliance focuses on workers’ safety and health in restaurant industry,” OSHA Trade News Release, November 1, 2011. *Available at:* [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=NEWS\\_RELEASES&p\\_id=20961](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=20961).

<sup>17</sup> Honorable Hilda Solis, “Restaurant Workers in the 21<sup>st</sup> Century,” United States Department of Labor, November 17, 2011. *Available at:* [http://www.dol.gov/\\_sec/media/speeches/20111117\\_workers.htm](http://www.dol.gov/_sec/media/speeches/20111117_workers.htm).

<sup>18</sup> OSHA Trade News Release, New OSHA Alliance focuses on workers’ safety and health in restaurant industry, Nov. 11, 2012 *available at* [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=NEWS\\_RELEASES&p\\_id=20961](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=20961) (last visited Apr. 24, 2012).

<sup>19</sup> “Agreement Establishing an Alliance between the Occupational Safety and Health Administration U.S. Department of Labor and Restaurant Opportunities Centers United,” United States Department of Labor, October 20, 2011. *Available at:* [http://www.osha.gov/dcsp/alliances/roc/roc\\_final.html](http://www.osha.gov/dcsp/alliances/roc/roc_final.html).

The Honorable Hilda Solis

July 2, 2012

Page 4

4. All documents referring or relating to any standards that DOL and/or OSHA use to decide whether to make an organization part of its "Alliance Program."
5. All documents and communications referring or relating to DOL's decision to award a \$275,000 grant to ROC in 2009.<sup>20</sup> Please explain how the grant was awarded, including details about the selection process. Please include any progress reports, accomplishments, or other work-product that was generated from the grant.
6. A list of any other funds that DOL has awarded to ROC or ROC affiliates in the last five years.

In preparing your answers to these questions, please answer each question individually and include the text of each question with your response. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

If you have any questions about this request, please contact Mike Whatley or Kristin Nelson of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,



Darrell Issa  
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member  
Committee on Oversight and Government Reform

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<sup>20</sup> "Prime Award Spending Data," USASpending.gov. Available at:  
[http://usaspending.gov/search?form\\_fields=%7B%22search\\_term%22%3A%22%5C%22restaurant+opportunities+center%5C%22%22%7D](http://usaspending.gov/search?form_fields=%7B%22search_term%22%3A%22%5C%22restaurant+opportunities+center%5C%22%22%7D).