

Testimony of Mr. Miguel Angel Jovel Lopez  
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**The H-2B Guestworker Program and Improving the Department of  
Labor's Enforcement of the Rights of Guestworkers**

Committee on Oversight and Government Reform  
Domestic Policy Subcommittee  
Thursday, April 23, 2009, 10 a.m., Rayburn HOB 2154

My name is Miguel Angel Jovel Lopez. I am from El Salvador, where eight people depend on me to contribute to their livelihood – my four younger brothers, my wife, my two year-old daughter, and my parents. In El Salvador, I worked as a plumber and as a farmer. But the economy of my country made it impossible to live and provide for my loved ones. Even with two jobs, I was barely able to make \$30.00 a week. That is why I decided to leave my family, and become a guestworker.

I am honored to speak, along with the other guestworkers here today, about the severe labor exploitation that exists in the H-2B guestworker program. We urge the Department of Labor to work to make sure the laws of the United States are enforced to protect H-2B guestworkers, who are made especially vulnerable by the imbalance of power between workers and employers in the rules of the program. A year ago I came to this country full of hopes but after a year away from my daughter and my wife I haven't satisfied a single dream. My family is now deeper in debt having borrowed additional money to cover expenses in the last ten months. Cumberland did just cheat me, they cheated my family

If I had known then what I know now about the U.S. guestworker program, I would never have come. I am here with you today on behalf a group of guestworkers from El Salvador, Peru, and Bolivia. We were recruited with false promises by agents of a U.S. company called Cumberland Environmental Resources Co. Cumberland's agents promised me stable demolition work in Louisiana. Instead, when work was available, they leased to me to jobsites across the South doing asbestos removal. I am here today to tell you our story, and to introduce you to the realities of the guestworker program.

Towards the end of 2007, I first met with the recruitment office Salvadorian Industrial Workers (T.I.S.) who promised me a job doing demolition in Louisiana with guaranteed minimum of 40 hours per week at \$9.50 per hour. They assured me the U.S. employer would extend my visa so I could stay in the U.S. long enough to recoup the recruitment fees and earn money to support my family.

My sister-in-law lent me the fees it cost to obtain the job and the visa. In total, I paid over \$4,000. When my visa was approved by the U.S. Consulate, they mailed my passport and visa to T.I.S., who held it until I paid the final fees and signed documents they presented minutes before check-in for my flight.

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At the airport, I first learned that T.I.S. had arranged tickets to Nashville, Tennessee instead of Baton Rouge, the address listed for the company “Jeni Care” on my H-2B visa. But what could I do? I had already paid so much money. I had no power to negotiate for what had been promised.

When I arrived in Nashville, things changed even further. A company called Cumberland Environmental Resources Co. told me that my work would be asbestos removal. I was ready to do anything to start working, providing for my family, and paying down my debt. Instead of starting work, however, I was dropped off at an apartment and left for two weeks. Then I was told to attend a two week training course. I waited three more weeks before working for one day on a private home and then sitting for three more weeks. The other workers and I had been promised work in Louisiana, but when we did work, Cumberland instead leased us out to other contractors across the South. These included contractors working on local, state, and federal government worksites. We were employed on Maxwell Air Force Base in Alabama, Camp Lejeune in North Carolina, Vanderbilt Hospital in Nashville, Veteran's Hospital in Nashville, and universities across the South. Another time I was brought to work at our boss, Gary Lang's house. I worked hard all day but he never paid me.

During long periods with no work, I was barely surviving myself and was unable to send money home or pay my debts. Cumberland loaned other workers and me money to eat, but when we eventually did work, Cumberland took the majority of our wages back through deductions. The deductions were confusing, and even now I do not know all the reasons for them. I know they deducted the portions of my wages for loans they had given me, for my asbestos licensing in five states, for food, and for portions of an additional \$2,500 recruiting fee. I worked every chance I got, but it still took me ten months to pay all the money I supposedly owed to Cumberland. For those ten months, I was not able to pay any of the debt that I had in El Salvador.

The other workers and I started to realize that we would never get ahead. We started to meet and talk together to understand what was happening to us. We were depressed by our situation—even when we worked, the deductions swallowed our earnings. And this was not what we had been promised in our home countries.

We asked the head of Cumberland to meet with us, and we asked to see the contract Cumberland had submitted to the U.S. government describing our jobs, wages, and working conditions. We wanted to see if this document matched the promises made to us at home.

Instead of meeting us and showing us the contract, Cumberland illegally threatened us with termination and deportation and then fired us on February 13, 2009. So we went on strike and filed an unfair labor practice charge with the National Labor Relations Board. On February 17, 2009, we also asked the DOL's Office of Inspector General to investigate fraudulent statements on Cumberland's application for H-2B workers. We have not yet received a response from DOL on the status of our complaint, and we have received no protections from DOL.

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To protect guestworkers and enforce the law, the Department of Labor must understand and respond to the situation guestworkers find themselves in—deeply indebted and with a visa tied to one employer. No one should be forced to work for just one boss—especially not when he lies and breaks the law. There needs to be a change in the law so that labor brokers like Cumberland cannot bring in guestworkers.

My suggestions are that the Department of Labor take the following steps to ensure guestworkers' rights are protected, and they are treated with dignity:

- DOL should not grant visas to labor brokers. Without anyone checking to see if work is available, labor brokers lure vulnerable workers into debt with lies and false promises. There is no one to help guestworkers at that point, and they and their families suffer.
- DOL should prioritize enforcement of laws requiring repayment of illegal debts forced on guestworkers during initial recruitment and for extensions of the H-2B visa. The consequences of these extreme debts on families keeps many guestworkers from demanding their rights because they fear being deported back into debts they cannot repay.
- DOL should ensure guestworkers who make complaints are not retaliated against by their employers. Guestworkers are at a high risk of retaliation because their visa is tied to one employer. If a guestworker is fired in retaliation and deported, DOL will not be able to finish the investigation and the rest of the guestworkers will be afraid to cooperate.
- DOL should assist the guestworkers in remaining in the United States with work authorization during the investigation and resolution of the complaint. Because guestworkers are tied to the employer sponsoring their H-2B visa, employers easily exploit them. If employers saw that guestworkers facing exploitation could leave an abusive employer and receive adequate protections from the government to remain and work legally in the United States during the investigation, this would deter illegal exploitation by employers.
- DOL should prohibit employers, recruiters, lawyers, and others who abuse the program from bringing in guestworkers in the future.

To conclude, there is a lot of abuse in the guestworker program because our visa depends on one single person—our boss. There are too many employers that use this power to profit from the suffering of guestworkers. The DOL should enforce laws protecting guestworkers and give guestworkers an opportunity to work and be protected when their boss breaks that law.

Thank you for the opportunity to present this testimony and for your work to make sure future guestworkers do not suffer the way that we have suffered.