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Via Facsimile

March 6, 2013

U.S. Department of Labor  
Wage and Hour Division  
Stegmaier Building - Suite 373M  
7 N. Wilkes-Barre Boulevard  
Wilkes-Barre, Pennsylvania 18702

**RE: Notice of Violation of Fair Labor Standards Act by McDonald's Franchisee  
Andy Cheung and Cheung Enterprises LLC and Geovisions**

To U.S. Department of Labor, Wage and Hour Division:

Please accept this Notice of Violations of the Fair Labor Standards Act, 29 U.S.C. 201 et seq. including failure to pay minimum wage, overtime, and retaliation ("complaint") at the McDonald's Franchises operated by Andy Cheung. This complaint is filed on behalf of the following guestworkers ("McDonalds Guestworkers") and all similarly situated workers employed there in the past three years who are employed pursuant to J-1 summer work travel visas. The McDonalds guestworkers were employed at three of the at least six McDonald's franchises operated by Andy Cheung.

<b>Name of Worker</b>	<b>Country of origin</b>
Jorge Rios	Argentina
Rodrigo Yañez	Chile
Luis Fernando Suarez	Peru
Alicia Marin	Paraguay
Fernando Acosta	Paraguay
Ka Inn Lee	Malaysia
Alex Amoria	Brazil

**RELEVANT BACKGROUND FACTS ON MCDONALDS STUDENT  
GUESTWORKERS**

Student guestworkers from Argentina, Peru, Chile, Malaysia, and other countries were recruited by Geovisions and jointly employed by Andy Cheung, Cheung Enterprises LLC, and Geovisions at three McDonalds franchises in the Harrisburg, Pennsylvania area. Each student paid at least \$3,000 to participate in the U.S. State Department's J-1 student guestworker program- a program designed to offer foreign college students a summer cultural exchange in the United States.

Instead, McDonald's franchisee Andy Cheung/ Cheung Enterprises LLC and Geovisions used the J-1 program to source cheap, exploitable workers from Latin American and Asia and then treated them as a sub-minimum wage surplus workforce at the fast food chain franchises. Though students had been promised 40 hours of work a week, they were given as few as four hours of work a week at \$7.25 an hour, and faced housing deductions to live in substandard housing owned and controlled by Andy Cheung that brought their weekly net pay down far below minimum wage. Cheung charged students \$300 each per month to live in basement apartments he owned, packing up to eight students in a single basement. Cheung and representatives from McDonald's labor recruiter Geovisions also made surprise visits to the apartments to intimidate students who raised concerns.

Needing to pay off the over \$3000 in program fees they had incurred for the cultural exchange program, students were desperate to be scheduled for hours at the McDonalds locations. Cheung and Geovisions used this to their advantage. Students were on constant call to come in for work shifts on as little as 30 minutes' notice, and when they raised complaints of any kind, the employer retaliated by cutting their hours even further. The few students who didn't have too few hours had the opposite problem, being forced to work shifts of up to 25 hours straight.

When students raised concerns, Geovisions and Cheung responded with threats in order to suppress the complaints limiting the hours and engaging in other conduct designed to repress good faith complaints by student workers.

### **RELEVANT BACKGROUND FACTS ON EMPLOYERS**

Cheung Enterprises LLC is a privately-held limited liability company specializing in franchising McDonalds restaurant establishments. The company was incorporated in the state of Pennsylvania on June 19, 2009 and is wholly-owned by Andrew T. Cheung of Mechanicsburg, PA and currently operates six McDonald's facilities in the Harrisburg/Central Pennsylvania region. The McDonald's guestworkers were employed at 3 sites.

Geovision is a nonprofit recruiter registered with the State Department purportedly based in New Hampshire. In addition to acting as the recruiting agent for the students, Geovision acted as the students joint-employer in multiple ways including directing all student complaints regarding workplace conditions to be made with Geovisions and retaliating against students who raised concerns by engaging in workplace actions including limiting the number of hours students were assigned to work.

McDonald's franchisees rely on minimum wage labor to operate the McDonald's business model. Compliance records available from the wage and hour division show a history of Fair Labor Standards Act violations by McDonald's franchise owners.

## **VIOLATIONS OF THE FAIR LABOR STANDARDS ACT**

The McDonalds guestworkers allege the following violations on behalf of themselves and all similarly situated workers including guestworkers and U.S. workers:

- record keeping violations for failure to record all hours worked
- failure to pay all hours worked resulting in a violation of minimum wage
- unlawful deductions, including for housing owned by the employer, resulting in a failure to pay minimum wage
- unlawful pre-employment expenses which should be considered deductions which result in a failure to pay minimum wage
- failure to pay overtime wages for hours worked more than 40 in a workweek
- retaliation against students for raising these issues with their employers

The McDonalds guestworkers were paid at a base rate of \$7.25/hour. They were not paid for all hours worked and were not paid at a rate of 1.5 times their base rate when they worked over 40 hours in a workweek. Andy Cheung required some of the McDonald's Guestworkers to sign documents confirming that Cheung Enterprises LLC would not pay overtime wages even when students worked hours in excess of 40 in a workweek. Cheung Enterprises also required students to live in basement housing owned and operated by Andy Cheung and made unlawful deductions for housing costs that dropped the students' pay below minimum wage. Students also ask DOL-WHD to fully investigate all time keeping, wage payment, and deduction systems to more fully analyze additional potential violations of the FLSA.

## **DOL-WHD MOU WITH ICE**

Finally, McDonald's Guestworkers request that WHD ensure deconfliction of any DHS enforcement activities against the J-1 students who are complainants and witnesses contributing to this complaint. *See* March 31, 2011, Revised Memorandum of Understanding between the Departments of Homeland Security and Labor Concerning Enforcement Activities at Worksites. This includes enforcement actions by ICE as well as any actions with immigration related consequences including actions that would prejudice students' ability to obtain future visas to the United States.

Jennifer Rosenbaum, Legal Director is the authorized legal representative of the McDonald's Guestworkers for purposes of this complaint. The McDonalds Guestworkers may be contacted through her: 217 N. Prieur St., New Orleans, LA 70112, (504) 309-5165 (office), (504) 376-6238 (cell), [jjrosenbaum@nowcrj.org](mailto:jjrosenbaum@nowcrj.org). Additional documents and information are available upon request.

Students respectfully ask that DOL- WHD expedite consideration of their complaint and the investigation process given their status as temporary guestworkers. Given the past retaliation against students for raising FLSA violations, the students ask that DOL conduct the investigation taking into account best practices for workplaces where retaliation has already taken place.

Previous student complaints to the State Department were referred to Geovisions. Students are contemporaneously renewing complaints about violations of State Department program J-1 Summer Work Travel regulations with the Department of State.

Submitted this 6 day of March 2013,

Sincerely,

*s/ Jennifer J. Rosenbaum*

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