

N E W S R E L E A S E

News Release No.: 2018-40

Date: June 11, 2018

Labor Commissioner's Office Cites Cheesecake Factory, Janitorial Contractors More Than \$4.5 Million for Wage Theft Violations

San Diego—The Labor Commissioner's Office has found Cheesecake Factory Restaurants, Inc. liable in a \$4.57 million wage theft case that underpaid 559 janitorial workers managed by Magic Touch Commercial Cleaning. Americlean Janitorial Services Corp., the Cheesecake Factory's janitorial contractor that subcontracted the work to Magic Touch Commercial Cleaning, is also liable for the wage theft, which occurred at eight locations in Orange and San Diego counties.

The affected workers are due \$3.94 million in minimum wages, overtime, liquidated damages, waiting time penalties and meal and rest period premiums.

"This case illustrates common wage theft practices in the janitorial industry, where businesses have contracted and subcontracted to avoid responsibility for ensuring workers are paid what they are owed," said Labor Commissioner Julie A. Su. "Client businesses can no longer shield themselves from liability for wage theft through multiple layers of contracts. Our enforcement benefits not only the workers who deserve to be paid, but also legitimate janitorial businesses that are underbid by wage thieves."

Investigators found that the janitorial workers began their shifts around midnight and worked until morning without proper meal or rest break periods. After working for eight hours, the Magic Touch workers were not released until Cheesecake Factory kitchen managers conducted walkthroughs to review their work. These walkthroughs would frequently lead to additional tasks that the janitorial workers had to complete before they were released for the day. This resulted in each worker logging up to 10 hours of unpaid overtime each week.

The Cheesecake Factory locations investigated include:

- Brea Mall Way, Brea
- Spectrum Center Drive, Irvine
- Edinger Avenue, Huntington Beach
- Friars Road, San Diego
- Newport Center Drive, Newport Beach
- The Shops at Mission Viejo, Mission Viejo
- Via Rancho Parkway, Escondido
- Harbor Drive, San Diego

Magic Touch Commercial Cleaning owner Zulma Villegas must pay \$3,936,359 to the workers for unpaid minimum wages and overtime, liquidated damages, waiting time penalties and meal and rest period violations. The citations also include \$632,750 for

failure to provide properly itemized pay stubs and other civil penalties. During the Labor Commissioner's investigation which began in December 2016, Villegas changed her business name and began operating as Z's Commercial Quality Cleaning. Both businesses are subject to the citations.

Citations against the Cheesecake Factory Restaurants, Inc. and Americlean Janitorial Services Corp. DBA Allied National Services for \$4,206,351 were issued under [Assembly Bill 1897](#) (California Labor Code Section [2810.3](#)), a law signed by Governor Edmund G. Brown Jr. in 2014, which took effect on January 1, 2015.

The law holds client employers that obtain labor from a subcontractor responsible for their workplace violations. A client employer may be liable for the subcontractor's owed wages, damages and penalties, as well as workers' compensation violations.

Janitorial service companies operating in California are also required to register with the Labor Commissioner's Office by July 1 under the [Property Services Workers Protection Act](#), a new law that aims to protect workers in the janitorial industry.

Workers who cooperated in the investigation were represented by the Maintenance Cooperation Trust Fund, a janitorial industry watchdog organization based in Los Angeles. The investigation was initiated after the Labor Commissioner's Office received a report of wage theft from the Employee Rights Center in San Diego, a non-profit group that assists low-wage workers without union representation.

Enforcement investigations typically include a payroll audit of the previous three years to determine minimum wage, overtime and other labor law violations, and calculate payments owed and penalties due.

When workers are paid less than minimum wage, they are entitled to liquidated damages that equal the amount of underpaid wages plus interest. Waiting time penalties are imposed when the employer intentionally fails to pay all wages due to the employee at the time of separation. This penalty is calculated by taking the employee's daily rate of pay and multiplying it by the number of days the employee was not paid, up to a maximum of 30 days.

Civil penalties collected are transferred to the State's General Fund as required by law.

The Division of Labor Standards Enforcement, or the Labor Commissioner's Office, is the division within the Department of Industrial Relations (DIR) with wide-ranging enforcement responsibilities including adjudicating wage claims, inspecting workplaces for wage and hour violations, investigating retaliation complaints and educating the public on labor laws.

In 2014, Labor Commissioner Su launched the [Wage Theft is a Crime](#) multilingual public awareness campaign. The campaign defines wage theft and informs workers of

their rights and the resources available to them to recover unpaid wages or report other labor law violations.

Employees with work-related questions or complaints may contact DIR's Call Center in English or Spanish at 844-LABOR-DIR (844-522-6734).

Members of the press may contact Erika Monterroza or Luke Brown at (510) 286-1161, and are encouraged to [subscribe to get email alerts](#) on DIR's press releases or other departmental updates.

#



The [California Department of Industrial Relations](#), established in 1927, protects and improves the health, safety, and economic well-being of over 18 million wage earners, and helps their employers comply with state labor laws. DIR is housed within the [Labor & Workforce Development Agency](#). For general inquiries, contact DIR's Call Center at 844-LABOR-DIR (844-522-6734) for help in locating the appropriate [division or program](#) in our department.