

U.S. Department of Labor

Office of the Regional Solicitor
Suite 630 East
The Curtis Center
170 S. Independence Mall West
Philadelphia, PA 19106-3306



Reply to the Attention of: Sol # (16)00305
Telephone: (215) 861- 5165

Facsimile:
(215) 861-5162

December 28, 2016

VIA UPS NEXT DAY

Honorable Stephen R. Henley
Chief Administrative Law Judge
Office of Administrative Law Judges
United States Department of Labor
800 K Street, N.W.
Suite 400 North
Washington, D.C. 20001-8002

2016 DEC 29 PM 2:33
U.S. DEPT. OF LABOR
ADMIN. LAW JUDGES
WASHINGTON, DC

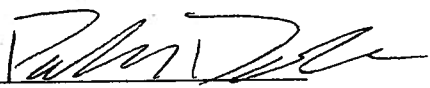
Re: *Secretary of Labor v. Restaurant Associates LLC, Restaurant Associates, Inc., and Dick Cattani, individually*

Your Honor:

Pursuant to 29 C.F.R. Part 6, enclosed herewith please find the original and one copy of a Complaint to be filed in the above-referenced McNamara-O'Hara Service Contract Act matter. Please notify this office of the date of filing of the Complaint and the docket number assigned thereto.

Respectfully submitted,

Oscar L. Hampton III
Regional Solicitor

By: 
Patrick M. Dalin
Trial Attorney

Enclosure

cc: Leslie Stout-Tabackman, Esq.
Dick Cattani, CEO of Restaurant Associates, Inc.
and Restaurant Associates LLC

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:

SECRETARY OF LABOR, UNITED STATES
DEPARTMENT OF LABOR,

Plaintiff,

v.

RESTAURANT ASSOCIATES LLC,
RESTAURANT ASSOCIATES, INC., and DICK
CATTANI, Individually,

Respondents.

Administrative Proceeding

Case No.

COMPLAINT

Investigation having disclosed that the contract identified herein has been breached and the provisions of the McNamara-O'Hara Service Contract Act of 1965 (41 U.S.C. § 6701, et seq.), hereinafter referred to as "SCA", and regulations issued thereunder at 29 C.F.R. Part 4, have been violated, it is charged that:

I.

Respondent, Restaurant Associates LLC ("RA LLC"), is and at all relevant times was a limited liability company organized under the laws of the State of New York. At all relevant times, Respondent RA LLC was engaged in the business of food services.

II.

Respondent, Restaurant Associates, Inc. ("RA, Inc.") is and at all relevant times was a corporation organized under the laws of the State of New York. At all relevant times, Respondent RA, Inc. was engaged in the business of food services.

III.

Respondent, Dick Cattani (“Cattani”), was at all relevant times Chief Executive Officer of Respondents, RA LLC and RA, Inc. In such capacity, Cattani was a responsible officer of RA LLC and RA, Inc. who signed the contract at issue on behalf of RA LLC and RA, Inc. and exercised control over employment policies and practices under the contract at issue.

IV.

(a) The United States Government awarded Respondent RA LLC the food-services contract listed below:

- i. Contracting Agency: The Architect of the Capitol
- Contract Number: AOC08C0069
- Contract Term: 12/7/2008 – 12/8/2029
- Contract Amount: Commission on gross receipts not to exceed \$5,250,386.82

(b) This contract was one to which the United States, or an agency or instrumentality thereof, was a party.

(c) Respondent RA, Inc. signed subsequent modifications of this contract.

V.

The contract identified in paragraph IV hereof contained the representations and stipulations required by the SCA and the regulations. The contract included Wage Determination No. 2005-2103 (Rev. 06-16).

(a) The services specified in the contract identified in paragraph IV hereof were furnished in the United States by Respondents to the Government of the United States through the use of service employees, as defined by Section 8(b) of the SCA (41 U.S.C. §6701(3)).

(b) The contract identified in paragraph IV hereof required or involved the employment of service employees in the performance of such contract.

VI.

Respondents failed to pay their employees in the performance of the aforesaid contract the minimum monetary wages and fringe benefits required by the contract by Sections 2(a)(1), 2(a)(2) and 2(b)(1) of the SCA (41 U.S.C. §§6703(1), (2), (5)) and by 29 C.F.R. §4.6.

VII.

Because of the aforesaid breach of the contract, Respondents underpaid employees under the SCA in the amount of \$904,667.75. Additionally, Respondents underpaid employees \$20,981.99 under the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3701, et seq., and \$4,491.74 under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et seq. Additionally, Respondents subcontracted part of the contract at issue to a firm doing business in the name of Personnel Plus. Respondents failed to include in the subcontract the representations and stipulations required by the SCA and the regulations and as a result Personnel Plus underpaid employees by \$90,603.76.

VIII.

Following an investigation by the Secretary's Wage and Hour Division, Respondent RA LLC agreed to pay and, upon information and belief, has paid all back wages listed above in paragraph VII. The Secretary reserves the right to update the amount of back wages and include any additional underpayments occurring up to the date of the hearing.

IX.

As a result of the breach of contract and violations of the SCA and the applicable regulations, and upon the Secretary's finding that unusual circumstances do not exist to relieve

Respondents from the debarred list, Respondents and any firm, corporation, partnership, or association in which such persons or firms have a substantial interest should be declared ineligible to receive further Federal contracts pursuant to Section 5 of the SCA (41 U.S.C. § 6706) and 29 C.F.R. § 4.188.

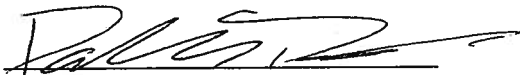
WHEREFORE, this Complaint has been signed and issued at Philadelphia, Pennsylvania this 28th day of December, 2016.

Post Office Address:

U.S. Department of Labor
The Curtis Center, Suite 630 East
170 S. Independence Mall West
Philadelphia, Pennsylvania 19106-3306
(215) 861-5165

M. Patricia Smith
Solicitor of Labor

Oscar L. Hampton III
Regional Solicitor


Patrick M. Dalin
Trial Attorney

U.S. DEPARTMENT OF LABOR
Attorneys for Plaintiff.

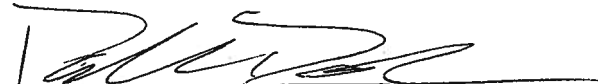
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Complaint was forwarded by
UPS overnight mail, on this 28th day of December, 2016 to the following:

Restaurant Associates LLC
c/o Leslie Stout-Tabackman
Jackson Lewis P.C.
10701 Parkridge Blvd.
Suite 300
Reston, VA 20191

Restaurant Associates, Inc.
c/o Leslie Stout-Tabackman
Jackson Lewis P.C.
10701 Parkridge Blvd.
Suite 300
Reston, VA 20191

Dick Cattani
Restaurant Associates, Inc.
Restaurant Associates LLC
132 West 31st Street
Suite 601
New York, NY 10001



Patrick M. Dalin
Trial Attorney