



# **THE RESTAURANT OPPORTUNITIES CENTER:**

*EXTREME LABOR GROUP COMES TO SEATTLE*

A REPORT BY FREEDOM FOUNDATION

MAX NELSEN, LABOR POLICY ANALYST - MARCH 19, 2014



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**MAX NELSEN** LABOR POLICY ANALYST

PO Box 552 Olympia, WA 98507 | 360.956.3482

MNelsen@myFreedomFoundation.org | myFreedomFoundation.com

# THE RESTAURANT OPPORTUNITIES CENTER:

## *EXTREME LABOR GROUP COMES TO SEATTLE*

### INTRODUCTION

On January 7, 2014, the Service Employees International Union (SEIU) Local 775 posted a notice on its website seeking restaurant workers in King County for a survey on working conditions.

But SEIU 775 was promoting another organization's survey, not conducting its own. The web page initially featured the logo of an organization called the Restaurant Opportunity Center United (ROC). The logo was removed a day after the page went live, although the URL still reads: <http://775nw.seiu.org/page/content/roc>

The SEIU page lists Maria Francisca as the contact person for the survey and includes a yahoo.com email address. However, an advertisement for research interns to help with the ROC survey on Seattle University's Master of Public Administration Facebook page lists Maria Francisca's email address as "mariafrancisca@rocunited.org."

Though SEIU 775 attempted to hide their relationship, the survey is undoubtedly being conducted on behalf of ROC.

ROC is a controversial, labor-backed organization trying to build a nationwide presence. It has not been active in the Pacific Northwest until now. Typically, ROC will launch its efforts in a particular city by releasing a study purporting to document poor working conditions in the city's restaurant industry. This then serves as a foundation for labor organizing, attempts to increase the minimum wage and harassment of restaurateurs.

Given the ongoing push in Seattle for a \$15 minimum wage and ROC's coordination with SEIU in the Puget Sound region, a report "exposing" Seattle-area restaurants should be expected in the near future.

## ROC'S BACKGROUND

ROC's website notes that, "although initially founded after September 11th, 2001 to provide support to restaurant workers displaced as a result of the World Trade Center tragedy, ROC-NY has grown to support restaurant workers all over New York City and advocate for improved working conditions."<sup>1</sup>

As the organization began expanding beyond New York City, ROC-United was formed in 2007. ROC now has a presence in a number of major U.S. cities.

But the organization was tainted from the beginning by its close association with organized labor. Saru Jayaraman, co-founder of the ROC, wrote in 2003 that "While HERE [a union] focuses on big, 'tablecloth' restaurants, ROC-NY works with any restaurants, no matter how small. The goal is to create a labor-friendly climate in these places, so the union can organize them in a few years."<sup>2</sup>

One year later, Jayaraman stated, "We want the [non-union restaurant] industry to feel threatened by the union or by us."<sup>3</sup>



ROC founder, Saru Jayaraman at a 2007 protest  
Image from *New York Post*

## TACTICS

ROC has lived up to Jayaraman's vision, frequently using outlandish stunts, prolonged demonstrations and harassment of workers and patrons to shakedown high-profile restaurateurs.

For example, in 2005 ROC-NY descended on the restaurant of upscale chef Daniel Boulud and threatened to file suit against him unless he met their demands. After negotiations fell apart, ROC-NY filed discrimination charges against Boulud in 2007 and mounted a sustained protest campaign against his restaurant. According to the *New York Times*, the protests featured accusations of racism, harassment of restaurant patrons, and a 12-foot inflatable cockroach, all part of ROC's strategy to use "the threat of lawsuits and bad publicity to make social change."<sup>4</sup> Boulud eventually filed a counter-suit seeking damages and an injunction against ROC-NY's activities.<sup>5</sup>

A 2007 article in the *New York Village Voice* documented ROC-NY's campaign against restaurants owned by the Fireman family. Some of the highlights: making "a giant puppet of Shelly Fireman's head with dollar signs for eyes" and accusing Shelly, a Jew, of anti-Semitism. The article explained how ROC goes after "high profile targets" by "staging loud public protests (sometimes called 'prayer vigils' to circumvent certain labor laws), threatening lawsuits, and winning out-of-court settlements for the workers." Some restaurant staff mounted counter-protests with signs reading: "The only people stealing our tips are ROC."<sup>6</sup>

In 2010, following harassment and threats directed at staff and patrons, New York restaurant owners Chef Mario Batali and Joseph Bastianich sought and received a court restraining order against ROC-NY protestors targeting their establishments.<sup>7</sup> Like many targeted restaurants, the pair eventually agreed to a settlement.

ROC's methods are crude but effective. In a 2010 article about ROC-NY for *Crain's New York Business*, Lisa Fickenscher explained that "Settling is often the less expensive option for restaurateurs mindful of their brand's image and the cost of a long court fight."<sup>8</sup>

## ROC'S COLORS RESTAURANT

# AS IT TURNS OUT, HOWEVER, IT IS EASIER TO PROTEST SOMEONE ELSE'S RESTAURANT THAN IT IS TO RUN YOUR OWN.

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As it turns out, however, it is easier to protest someone else's restaurant than it is to run your own.

Staffed by former employees of Windows on the World restaurant in the World Trade Center, ROC-NY opened a cooperatively-owned restaurant, Colors, in 2006 as a working example of "utopia for the restaurant industry."<sup>9</sup> From the beginning, though, the restaurant was plagued by a set of problems ironically similar to the deficiencies ROC claims to find in other establishments.

"Reality hurt," Fickenscher wrote in her article. "Nearly everything about the restaurant has been a struggle, from raising the funds to open it to attracting customers.... Today, Colors is more a symbol of its idealism than a functioning example of it."<sup>10</sup>

Many Colors employees moved on to other restaurant jobs for better pay. In 2007, seven former ROC members sued the group for failing to

compensate them for hundreds of hours of work put into the co-op, though the court eventually ruled in ROC's favor.<sup>11</sup> A former member of the co-op's board referred to Colors as "one of the most abusive [restaurants] in the city."<sup>12</sup>

More recently, New York City Department of Health inspectors found 18 health violations at the restaurant, including evidence of rodents, and gave the restaurant a "B" rating.<sup>13</sup>

And while ROC often rails against unpredictable scheduling practices at restaurants, an ROC job posting last fall for a "workplace justice organizer" noted that applicants should expect "to work long and irregular hours including work on weekends and on holidays."<sup>14</sup> Perhaps most surprisingly, while ROC regularly conducts outlandish protests against targeted employers, ROC employees are barred from striking against the organization.<sup>15</sup>

## LEGAL STATUS

ROC is part of a new breed of labor organization, the “worker center,” which performs union-like activities yet avoids the regulation and accountability applied to official labor unions.

Diana Furchgott-Roth, Senior Fellow at the Manhattan Institute, explains that worker centers “have a distinct advantage in comparison to traditional unions, which have to comply with regulations and register under a specific tax status in order to insure they are representing members’ wishes and making transparent use of their funds.”<sup>16</sup>

The AFL-CIO-aligned Labor and Employment Committee of the National Lawyers Guild noted that “the law on this issue is still unclear” and published a detailed guide designed to help worker centers take advantage of the legal ambiguity and “avoid being classified as a labor organization.”<sup>17</sup>

As a non-profit organization, ROC-United is one of the more prominent worker centers, though it has close ties to organized labor.

Former New York Attorney General Dennis Vacco referred to the ROC “a labor organization disguised as a nonprofit corporation” operating “on the fringes of traditional labor laws.”<sup>18</sup> In a 2006 piece for the American Spectator, Vacco explained how the ROC was effectively a union subsidiary using “old fashioned intimidation to shake down its targets.”<sup>19</sup>

ROC activity has drawn scrutiny from the U.S. Congress. As a non-profit, the ROC has been the recipient of federal funds, including a \$275,000 grant from the Department of Labor (DOL) in 2007. In a 2012 letter to then-Labor Secretary Hilda Solis about the ROC, the House Oversight and Government Reform Committee documented ROC’s “history of intimidation towards opponents and management problems with its own restaurant” and questioned the propriety of DOL’s support for the organization.<sup>20</sup>

## “BEHIND THE KITCHEN DOOR”

An important part of ROC’s tactics involves releasing headline-grabbing reports documenting allegedly poor working conditions in the restaurant industry.

The reports are part of ROC’s “Behind the Kitchen Door” series. Worker Center Watch explains ROC’s modus operandi:

*Early in many of ROC’s organizing drives, they will try to burnish their policy credentials by participating in or actively distributing studies to lay the intellectual groundwork for their efforts. In each market, they publish a “Behind the Kitchen Door” report that purports to outline the condition of the restaurant workplace in that city and the relative plight of restaurant workers. These studies are not scientific — they are not really studies in an academic sense, they are compilations of anecdotal items gathered from interactions with a small number of restaurant workers and then make broad extrapolations about the industry based on this process. They usually partner with a local academic institution to give it a veneer of authenticity and sell it to media outlets, elected officials and other opinion leaders.*<sup>21</sup>

Just last year, a “Behind the Kitchen Door” report<sup>22</sup> which argued that Philadelphia restaurant jobs are “frequently bad jobs, characterized by low wages, little or no benefits, and abusive working conditions” was criticized for using “shoddy methodology.”<sup>23</sup>

Seattle is next on the list. A January post on the Seattle University Master of Public Administration Facebook page advertised for research interns to assist with an ROC survey of “working conditions of restaurant workers in the Seattle metro area.” The promotion of ROC’s efforts on the Seattle University page could indicate that the university is working with ROC to produce the report.

Based on the titles of previous ROC reports, the Seattle survey will likely be titled something like: “Behind the Kitchen Door: [Something about Inequality] in [Greater Seattle/King County’s] [Thriving/Growing] Restaurant Industry.”

## WHY SEATTLE?

The *New York Times* recently explained that “Many within labor are looking to Washington State as a model because of all the union community activity there.”<sup>24</sup> It appears that ROC wants to capitalize on the recent surge of minimum wage activism in the King County area.

Following demonstrations against fast food restaurants in August, 2013, the Seattle-based Community Alliance for Global Justice explained it was “working with Jayaraman’s Restaurant Opportunities Center United (ROC-U) to build bonds between Seattle’s thriving “good food” movement and the accelerating food worker movement.”<sup>25</sup>

Then in November, the Progressive magazine *In These Times* published an article examining the SEIU’s role in the fomenting the ongoing fast food demonstrations. The article noted,

*SEIU appears to be pursuing several strategies simultaneously. Campaigns in Seattle and Washington, D.C., have pushed for living-wage ordinances. SEIU seems also to be interested in supporting fast-food worker centers—workplace advocacy organizations that are not formal unions. Two sources say SEIU is helping to start a new branch of Restaurant Opportunities Center United in Seattle and is considering supporting ROC chapters in other cities.*<sup>26</sup>

ROC is no stranger to campaigns seeking to boost the minimum wage. Just recently, the *Detroit Daily News* reported on an enlightening press release from Raise Michigan, “a coalition of groups including Michigan United and the Restaurant Opportunities Center-Michigan” seeking to boost the state minimum wage to \$9.50. The release featured a canned quote from “WORKER” expounding on the difficulty of making ends meet at the current minimum wage. A subsequent press release featured a modified quote from a pastor instead of a worker.<sup>27</sup>

ROC’s tactics will probably be welcomed by Seattle SEIU leaders, who have resorted to paying fast food workers to go on strike for higher wages.<sup>28</sup>

## CONCLUSION

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LABOR ACTIVISTS OFTEN CREATE MANY ISSUE-SPECIFIC GROUPS TO HELP GENERATE THE APPEARANCE OF GREATER SUPPORT. FOR INSTANCE, AS WE HAVE DOCUMENTED, GOOD JOBS SEATTLE IS A PROJECT OF WORKING WASHINGTON, WHICH IS WHOLLY FUNDED AND STAFFED BY THE SEIU.<sup>29</sup> NOW, IT APPEARS THAT ROC CAN BE ADDED TO THE LIST OF SEIU-BACKED GROUPS ENGAGING IN SEATTLE'S \$15 MINIMUM WAGE FIGHT.

BUT ROC'S HISTORY OF AGGRESSIVE SHAKE-DOWNS, LEGAL TROUBLE, HYPOCRISY AND INACCURACY MEANS ANY ADVOCACY OR RESEARCH PRODUCED UNDER THE ROC BANNER NEEDS TO BE APPROACHED WITH SKEPTICISM.

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