

HEARING OFFICER ADMINISTRATIVE HEARING

OFFICE OF THE CONTROLLER

CITY AND COUNTY OF SAN FRANCISCO

IN THE MATTER OF:

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF LABOR STANDARDS
ENFORCEMENT (OLSE),

and

GOLDEN DRAGON RESTAURANT,

CASE NO: MWO-C-036

STATEMENT OF FINDINGS
OF HEARING OFFICER

HEARINGS: APRIL 21, 24, 26, 2006 and
JUNE 9, 2006

RECORD CLOSED: JULY 14, 2006

INTRODUCTION

In March 2005, the San Francisco Office of Labor Standards Enforcement (OLSE) received nine complaints from employees and former employees of the Golden Dragon Restaurant alleging violations under the San Francisco Minimum Wage Ordinance (MWO). The OLSE subsequently conducted an audit of the restaurant's payment practices for the period February 23, 2004, when the MWO first went into effect, through March 15, 2005. Based on that audit, the OLSE determined that the restaurant was not in compliance with the MWO for some of its employees.

By letter dated December 12, 2005, Donna Levitt, Manager of the Office of Labor Standards Enforcement, requested that the Office of the Controller for the City and County of San Francisco appoint an impartial hearing officer to conduct a hearing under San Francisco Administrative Code Section 12R.7(b) in regard to possible violations of the San Francisco Minimum Wage Ordinance by employer Golden Dragon Restaurant. (Hearing Officer's Exhibit 1)

The December 12, 2005 letter states in pertinent part:

"We request that the hearing officer make written findings on the following issues:

- 1) Does Golden Dragon Restaurant owe back wages for violations of the MWO during the audit period of February 23 [2004] through March 15, 2005 and, if so, (a) what are the names of the employees who did not receive the minimum wage required by the MWO for that time period, (b) what are the number of hours that each employee worked during that time period for less than the minimum wage required under the MWO, and (c) what is the amount of back wages due to each affected employee for that time period?
- 2) Did Golden Dragon Restaurant fail to give the OLSE reasonable access to its records documenting wages paid to employees for March 16, 2005 through October 6, 2005?
- 3) If the answer to the prior question is 'yes,' did Golden Dragon Restaurant, by clear and convincing evidence, rebut the presumption that it paid only the state minimum wage from March 16, 2005 through October 6, 2005?
- 4) If Golden Dragon Restaurant did not rebut that presumption, does the evidence establish that Golden Dragon Restaurant violated the MWO between March 16, 2005 and October 6, 2005 and, if it does, what are (a) the number of employees who did not receive the minimum wage required by the MWO during that period of time, (b) the number of hours that they worked during that period of time, and (c) the amount of back wages due to employees for that period of time?"

By letter dated January 24, 2006, San Francisco Deputy Controller Monique Zmuda informed the Golden Dragon Restaurant and Deputy City Attorney Jill Figg, counsel for the OLSE, that the Controller's Office appointed the undersigned hearing officer to conduct a hearing regarding possible violations of the MWO. (Hearing Officer's Exhibit 2) The letter states in pertinent part:

"City and County of San Francisco Office of Labor Standards Enforcement Manager Donna Levitt has requested that the Deputy Controller appoint an impartial hearing officer to conduct a hearing required under San Francisco Administrative Code Section 12R.7(b) in regard to possible violations of the San Francisco Minimum Wage Ordinance (Administrative Code Chapter 12R) by employer Golden Dragon Restaurant. (Copy of OLSE Manager Levitt's December 12, 2005 letter enclosed.)

I hereby appoint City and County of San Francisco Administrative Law Judge Peter Kearns as the Hearing Officer in this matter. The Hearing Officer's role is to conduct a hearing that affords employer Golden Dragon Restaurant due process regarding the possible violations referenced in OLSE's December 12th letter. (Administrative Code Section 12R.7(b).) The Hearing Officer will promptly set a hearing date and notify the parties.

1 At the conclusion of the hearing, the hearing officer [will] provide written
2 Findings of Fact to OLSE and to Golden Dragon Restaurant. OLSE will
3 then make a final determination and notify Golden Dragon Restaurant."

4 By letter dated January 24, 2006, the undersigned hearing officer provided written notice
5 to the Golden Dragon Restaurant and the OLSE that a hearing would be conducted on February
6 17, 2006. The undersigned hearing officer requested the OLSE to submit a pre-hearing statement
7 on or before February 1, 2006, and the Golden Dragon Restaurant was requested to submit a
8 pre-hearing statement on or before February 8, 2006. (Hearing Officer's Exhibit 3) The OLSE
9 was specifically requested to submit a "detailed statement of issues presented to the Hearing
10 Officer for Findings," and the Golden Dragon Restaurant was specifically requested to submit a
11 "response to OLSE's statement of issues presented to the Hearing Officer for decision."

12 By letter dated January 26, 2006, Deputy City Attorney Jill Figg, on behalf of the OLSE,
13 requested a continuance of the hearing until March 31, 2006. The request was not opposed by
14 Golden Dragon Restaurant. By letter dated February 1, 2006, the undersigned hearing officer
15 provided written notice to the OLSE and the Golden Dragon Restaurant that the hearing would be
16 conducted on April 21, 2006 instead of February 17, 2006, as originally scheduled. The OLSE
17 was requested to submit its pre-hearing statement on or before March 3, 2006, and the Golden
18 Dragon Restaurant was requested to submit its pre-hearing statement on or before March 17,
19 2006. (Hearing Officer's Exhibit 4)

20 On February 22, 2006, twenty-one additional Golden Dragon employees filed claims with
21 the OLSE regarding the restaurant's payment practices. Each claimant alleged having received
22 either "bad paychecks" or no paychecks for work performed at the restaurant. Most of the claims
23 alleged the receipt of bad paychecks or no checks during the period September 1, 2005 through
24 January 17, 2006, the restaurant's final day of operation. The OLSE accepted the claims since
25 the employees alleged that they were not paid for time worked and, under the MWO, the
26 employees were entitled to minimum wage for each hour of work performed.

27 On March 3, 2006, the OLSE submitted a pre-hearing statement, which was served on the
28 restaurant and its owners and which includes OLSE Exhibits 1-18. (Hearing Officer's Exhibit 5)
The pre-hearing statement sets forth in detail the following: (1) the OLSE's findings concerning

1 the 9 employees who filed complaints with the department in March 2005; (2) the results of the
2 OLSE's audit of Golden Dragon payment practices during the period February 23, 2004 through
3 March 15, 2005, wherein the department determined that 37 various employees were paid less
4 than the minimum wage required under the MWO; and (3) the OLSE's findings concerning the 21
5 employees who filed complaints with the department on February 22, 2006 alleging receipt of bad
6 paychecks and/or no paychecks. The 37 employees identified by the department as being
7 underpaid during the audit period February 23, 2004 through March 15, 2005 include the initial 9
8 claimants, 12 of the 21 claimants who filed on February 22, 2006, and 16 non-claimant
9 employees. The pre-hearing statement lists the following issues to be presented to the hearing
10 officer:

11 "The OLSE requests that the hearing officer make written findings on the
12 following issues:

- 13 (1) Did Golden Dragon Restaurant violate the MWO by failing to pay
14 minimum wages to the identified 37 employees (including the nine
15 claimants)? If so, how much does it owe each employee in back
16 wages? How much does it owe each employee in administrative
17 penalties?
- 18 (2) Did Golden Dragon Restaurant violate the MWO by failing to pay
19 the 21 claimants wages for a total of \$122,888.49? If so, how
20 much does it owe each employee in back wages?
- 21 (3) Did Golden Dragon Restaurant violate the MWO by failing to pay
22 minimum wage to any employee? If so, how much does it owe the
23 City in administrative penalties?
- 24 (4) Did Golden Dragon Restaurant fail to give the OLSE reasonable
25 access to its payroll records for March 16, 2005 through the
26 present?

27 In sum, the OLSE seeks a determination regarding 46 employees: (1) the original 9
28 claimants, plus; (2) the 21 claimants who filed on February 22, 2006, plus; (3) the 16 non-
claimant employees identified by the department as being underpaid during the audit period
February 23, 2004 through March 15, 2005.

The Golden Dragon Restaurant did not submit a pre-hearing statement on or before
March 17, 2006 as requested, and on March 31, 2006 the undersigned hearing officer sent a
facsimile message to the Golden Dragon Restaurant and its owners, Gim Bong Lee and Big

1 Hong Ng, stating that a pre-hearing statement was not received and requesting that a statement
2 be submitted on or before April 11, 2006. (Hearing Officer's Exhibit 6) Neither the Golden Dragon
3 Restaurant nor either of its owners submitted the requested pre-hearing statement, and the
4 restaurant offered no response to the OLSE's statement of issues presented to the hearing
5 officer.

6 Based on the OLSE's estimated time to present its case, the parties were informed by
7 written notice dated April 11, 2006 that two additional days of hearing were scheduled for April
8 24, 2006 and April 26, 2006. (Hearing Officer's Exhibit 7)

9 On April 19, 2006, Gregory de la Pena, counsel for Golden Dragon owner Big Hong Ng,
10 requested a continuance of the hearings for the purpose of effectuating a settlement of the matter
11 and/or to prepare a defense. That same day, written objections to the request for continuance
12 were submitted by OLSE counsel Jill Figg, OLSE Supervising Compliance Officer Richard Waller,
13 and 17 claimants and former employees of the Golden Dragon Restaurant. By written notice
14 dated April 19, 2006, the undersigned hearing officer denied the request for continuance for the
15 following reasons: (1) there was no indication that the restaurant owner was unable to appear, (2)
16 no other good cause was articulated, and (3) the OLSE would not stipulate to a continuance.

17 Public hearings were conducted on the following dates: April 21, 2006 (City Hall Room
18 408); April 24, 2006 (City Hall Room 408); April 26, 2006 (City Hall Room 406); and June 9, 2006
19 (City Hall Room 408). Deputy City Attorney Jill Figg represented the Office of Labor Standards
20 Enforcement at each of the hearings. Golden Dragon Restaurant co-owners Big Hong Ng and
21 Gim Bong Lee did not appear at any of the hearings, and Mr. Lee was not represented at any of
22 the hearings. Attorney representative Gregory de la Pena appeared on behalf of co-owner Big
23 Hong Ng at the April 21, 2006 hearing, which was continued by mutual request of the parties
24 during the presentation of OLSE's opening statement. At the commencement of the April 24,
25 2006 hearing, Mr. de la Pena made a brief statement on behalf of Big Hong Ng wherein he
26 notified the undersigned hearing officer that Ms. Ng did not intend to participate any further in the
27 hearings due to financial constraints, and he then excused himself from the hearing.

28 At the hearings, the parties had full opportunity to present relevant evidence and

1 argument, and Hearing Officer's Exhibits 1 through 7 were entered into the record, as were OLSE
2 Exhibits 1 through 50. The OLSE exhibits contain documents detailing the OLSE investigation;
3 communications with Golden Dragon owners and representatives; payroll records, timesheets,
4 audit calculations and related documents; and documents supporting individual wage claims. The
5 OLSE also called 29 witnesses, who each testified under oath. Table 1 ("Witness List – OLSE
6 and Golden Dragon Restaurant"), attached and incorporated, sets forth the name and identity of
7 each of the witnesses who appeared on behalf of the OLSE, and the date the witness appeared.
8 David Yeh was sworn under oath to act as the interpreter for each of the claimants who testified.

9 The record was held open through July 14, 2006 to provide the parties an opportunity to
10 submit post-hearing legal briefs and proposed findings of fact, which were timely submitted by the
11 OLSE. The record closed on July 14, 2006.

12 SUMMARY OF EVIDENCE

13 **Case Chronology**

14 1. Pursuant to Administrative Code Section 12.R.4 (the Minimum Wage Ordinance or
15 MWO), the minimum wage to be paid by employers in San Francisco was established at an
16 hourly rate of \$8.50 effective February 23, 2004. For the period January 1, 2005 through
17 December 31, 2005 the minimum wage was \$8.62, and for the period January 1, 2006 through
18 December 31, 2006, the minimum wage is \$8.82. Pursuant to Section 12.R.3(b) of the MWO, an
19 employer is any person, as defined in Section 18 of the California Labor Code, including
20 corporate officers or executives, who directly or indirectly or through an agent or another person,
21 including through the services of a temporary services or staffing agency or similar entity,
22 employs or exercises control over the wages, hours or working conditions of any employee.

23 2. Pursuant to Section 12.R.7(b) of the Minimum Wage Ordinance, the Office of
24 Labor Standards Enforcement is authorized to take appropriate steps to enforce the MWO, and
25 may investigate any possible violations of the MWO by an employer.

26 3. Gregory de la Pena, counsel for Big Hong Ng, stated at the April 21, 2006 hearing
27 that the Golden Dragon Restaurant was a general partnership co-owned by partners Big Hong Ng

1 and Gim Bong (Jack) Lee, and the restaurant went out of business on January 17, 2006. The
2 restaurant was located at 822 Washington Street in San Francisco, California.

3 4. It is undisputed that Gim Bong Lee and Big Hong Ng, in the capacity of partners of
4 the business, had control over the wages, hours, and working conditions of the restaurant staff. At
5 the April 24, 2006 hearing, OLSE manager Donna Levitt testified that the Golden Dragon
6 Restaurant (hereafter "Golden Dragon") was subject to the Minimum Wage Ordinance for the
7 period from February 23, 2004, when the Ordinance went into effect, through January 17, 2006,
8 when the restaurant discontinued operations.

9 5. At the April 24, 2006 hearing, OLSE Supervising Compliance Officer Richard Waller
10 testified that the OLSE only investigates the wage payment practices of a business following an
11 employee complaint. Under Section 12.R.3(a) of the MWO, an employee is any person who, in a
12 particular week, performs at least two (2) hours of work for an employer within the geographic
13 boundaries of the City, and qualifies as an employee entitled to payment of a minimum wage from
14 any employer under the California minimum wage law, as provided under Section 1197 of the
15 California Labor Code and wage orders published by the California Industrial Welfare
16 Commission, or is a participant in a Welfare-to-Work Program.

17 6. On March 7, 2005, Golden Dragon employee Min Shan Liu complained to the OLSE
18 about the restaurant's payment practices, and OLSE Contract Compliance Officer Josh Pastreich
19 made the initial entry in the OLSE Activity Sheet for Case No. MWO-C-36 regarding Ms. Liu's
20 complaint. (OLSE Exhibit 19-A) OLSE Manager Donna Levitt testified that the activity sheet
21 documents the progression of the case, and the following OLSE staff members, each of whom
22 worked on the case, verified under oath the accuracy of the activity sheet entries: Supervising
23 Compliance Officer Richard Waller, and Compliance Officers Josh Pastreich and Robin Ho.

24 7. On March 14, 2005, Golden Dragon employees Min Shan Liu and Cong Hua Huang
25 each filed a wage claim report with the OLSE. (OLSE Exhibit 1) Min Shan Liu's claim states: "Not
26 getting paid, deducting money for meals, not paying all hours." Cong Hua Huang's claim states:
27 "Not getting pay biweekly – deducting \$ from meals, also deducting 1 hour for every 8 hours." Also
28 on March 14, 2005, OLSE Compliance Officer Josh Pastreich made the following entry in the case

1 activity sheet:

2 "I interviewed Min Shan Liu (Sunny) and Cong Hua Huang (Candy) with
3 Winny translating. I had them both fill out Wage Claim Reports and had
4 them describe in some detail the work. They said that some people have
5 not been paid for up to 6 months. The employer has a hand written record
6 of workers hours. Workers are usually paid one hour less than they
usually work. Tips on large parties are not distributed accurately or
sometimes at all. The power and gas have been cut off due to non-
payment in the last month and Candy's last check bounced, which makes
me very concerned that the restaurant will declare bankruptcy."

7 8. On March 15, 2005, the OLSE received six additional complaints from Golden
8 Dragon employees Raymond Yuen, Bie E. Xi, Li Chan Huang, Hua Mai Yue, Xiao Min Chan, and
9 Yat Yau Lam. They alleged unpaid wages, underpayment of minimum wage, and unpaid overtime.
10 (OLSE Exhibit 2)

11 9. Pursuant to Section 12.R:5(c) of the MWO, San Francisco employers are required
12 to retain payroll records pertaining to employees for a period of four years, and employers shall
13 allow the OLSE access to such records, with appropriate notice and at a mutually agreeable time,
14 to monitor compliance with the requirements of the MWO.

15 10. On March 15, 2005, Josh Pastreich of the OLSE sent a letter to Golden Dragon
16 owners Gim Bong Lee and Big Hong Ng, which states in relevant part:

17 "Under the authority granted this office by the Minimum Wage Ordinance
18 (MWO) Section 12(R)(5)(C), we are requesting that you provide us with
19 the Golden Dragon Restaurant's payroll records from February 23, 2004,
through present. These documents should be provided within 10 business
days, and no later than March 28, 2005."

20 (OLSE Exhibit 4)

21 11. On March 21, 2005, the OLSE received the ninth complaint against Golden Dragon
22 from employee Yu Mei Hou. (OLSE Exhibit 3) Claimant Hou alleged unpaid wages, underpayment
23 of minimum wage, and the failure to pay for overtime.

24 12. The OLSE case activity sheet indicates that on March 23, 2005, Winnie Leung
25 telephoned the OLSE on behalf of the Golden Dragon to advise that she had received the March
26 15, 2005 letter and would deliver the requested Golden Dragon's payroll records to the OLSE on
27 March 30, 2005. (OLSE Exhibit 19-A) The activity sheet further states that Ms. Leung informed the

1 OLSE that Golden Dragon employees were paid after conducting a picket at the restaurant. News
2 stories and at least one editorial chronicled events surrounding the picket. (OLSE Exhibit 4)

3 13. The case activity sheet states that on March 30, 2005, Golden Dragon
4 representatives Winnie Leung and Francis Chan (the activity sheet entry indicates that Mr. Chan is
5 the accountant for Golden Dragon) delivered Golden Dragon payroll records to the OLSE for the
6 period February 23, 2004 through March 15, 2005. (OLSE Exhibit 19-A)

7 14. By letter dated April 4, 2005, the OLSE requested timesheets and meal deduction
8 agreements from the Golden Dragon. (OLSE Exhibit 5)

9 15. On April 28, 2005, Mr. Chan delivered some additional payroll records to the OLSE
10 for the period February 23, 2004 through March 15, 2005. According to the activity sheet entry for
11 April 28, 2005, Mr. Chan explained that Golden Dragon was previously in arrears with employee
12 payroll approximately five months and that checks had bounced in the past, but the restaurant was
13 current with its payroll. (OLSE Exhibit 19-A)

14 16. On May 17, 2005, Mr. Chan delivered more payroll records for the period February
15 23, 2004 through March 15, 2005. The May 17, 2005 activity sheet entry states that Mr. Chan
16 advised the OLSE that he would return with additional requested documents on May 18, 2005.
17 (OLSE Exhibit 19-A)

18 17. The May 18, 2005 activity sheet entry states that owner Big Hong Ng appeared at
19 the OLSE without the additional requested documents. (OLSE Exhibit 19-A) However, Ms. Ng
20 signed an agreement to provide to the OLSE by June 1, 2005 the missing payroll records,
21 including copies of cashed checks, employee sign in sheets, and schedules. (OLSE Exhibit 5)
22 Attached to the agreement was a list of specific cancelled checks the OLSE identified as missing
23 from the previously submitted records. Golden Dragon subsequently produced the missing
24 documents.

25 18. In early July 2005, the OLSE prepared an audit for the period February 23, 2004
26 through March 15, 2005. In the audit, the OLSE determined that Golden Dragon violated the MWO
27 by not paying minimum wage to 37 employees. (OLSE Exhibit 6) The sum of underpayments was
28 originally determined to be in the amount of \$59,849.43. (OLSE Exhibit 6)

1 19. In support of the July 2005 audit, the OLSE submitted copies of Golden Dragon time
2 sheets (entitled "Employee's Daily Punctuality Record") and payroll records from Paychex and
3 ADP payroll services. (OLSE Exhibits 20 & 21) OLSE Contract Compliance Officer Robin Ho
4 testified that she was responsible for calculating the wage underpayments, and she provided
5 detailed testimony regarding the audit methodology.

6 20. To perform the audit, Ms. Ho looked at various documents for each worker,
7 depending on the records that were provided to the OLSE by Golden Dragon and the records
8 provided by the employees. The records considered by Ms. Ho included: (1) Golden Dragon time
9 sheets, (2) Golden Dragon payroll records from Paychex and ADP, (3) copies of paychecks, (4)
10 check stubs from payroll checks, and (5) logs or diary entries kept by employees for hours worked.
11 Using these documents, Ms. Ho was able to calculate the number of hours worked during each
12 relevant pay period for each employee, as well as the amount of wages paid by the restaurant. Ms.
13 Ho then calculated the amount of minimum wages (including all overtime and/or double time
14 wages) owed to each employee for each relevant pay period and from that amount she subtracted
15 the amount paid by the restaurant to arrive at the sum of unpaid minimum wages for each
16 employee during each relevant pay period. Ms. Ho testified that pursuant to state law, overtime
17 wages were calculated when an employee worked more than 8 hours, up to and including 12 hours
18 in a single workday, or for the first 8 hours worked on the seventh consecutive day of work in a
19 workweek. Double time wages were calculated for any hours worked more than 12 hours in a
20 single work day, or more than 8 hours on the seventh consecutive day in a single workweek.

21 21. According to the case activity sheet and OLSE staff testimony, OLSE staff members
22 Robin Ho, Josh Pastreich, and Richard Waller met with Francis Chan of Golden Dragon on July
23 13, 2005 to review the findings of the audit. (OLSE Exhibit 19-A)

24 22. Pursuant to Section 12.R.7(b) of the MWO, if the OLSE has reason to believe that a
25 violation has occurred, it may order any appropriate temporary or interim relief to mitigate the
26 violation or maintain the status quo pending completion of a full investigation or hearing. By letter
27 dated July 15, 2005, the OLSE notified Golden Dragon of the MWO provision that allows the OLSE
28 to issue interim orders for relief to mitigate violations of the MWO where it has reason to believe

1 that a violation has occurred. Included with the letter was a notice and order that the OLSE ordered
2 to be posted in the restaurant. (OLSE Exhibit 7) The interim order states in pertinent part:

3 "The Golden Dragon Restaurant shall keep complete and accurate time
4 records for each employee during their employment with the restaurant.
5 The time records shall show when employees begin and end each work
6 period. (Minimum Wage Ordinance, San Francisco Administrative Code
7 Sec.12R.5(c) (MWO) and Industrial Welfare Commission (IWC) Order #5,
8 Section 7(A)(3).)

9 The Golden Dragon Restaurant shall post where it can be easily read
10 during the workday a notice specifying the regular paydays when wages
11 are paid. (California Labor Code, Sec 207).

12 The Golden Dragon Restaurant will pay to employees all wages due on
13 the specified regular paydays. Work performed between the 1st and 15th
14 days shall be paid no later than the 26th day in the month the work was
15 performed and work performed between the 16th day and the last day of
16 the month, shall be paid no later than the 10th day of the following month.
17 (California Labor Code, Sec 204).

18 The Golden Dragon Restaurant will pay to employees all overtime and/or
19 double time due properly. Eight (8) hours of labor constitutes a day's
20 work. Employment beyond eight (8) hours in any workday or more than
21 six(6) days in any workweek must pay (a) One and one-half times the
22 employee's regular rate of pay for all hours worked in excess of eight
23 hours up to and including 12 hours in any workday, and for the first eight
24 hours worked on the seventh(7th) consecutive day of work in a workweek;
25 and (b) Double the employee's regular rate of pay for all hours worked in
26 excess of 12 hours in any workday and for all hours worked in excess of
27 eight(8) hours on the seventh(7th) consecutive day of work in a work
28 week. (Industrial Welfare Commission (IWC) Order #5, Section 3(A)(1)."

23. The July 18, 2005 activity sheet entry by Robin Ho states that Ms. Ho and Josh
Pastreich hand delivered the interim order to Big Hong Ng and Francis Chan at the restaurant on
that date. The entry states that Ms. Ho instructed Mr. Chan to post the order, which he agreed to
do.

24. The July 19, 2005 activity sheet entry by Robin Ho states that Ms. Ho and Josh
Pastreich visited the restaurant on that day and found that the restaurant had failed to post the July
15, 2005 interim order. Ms. Ho and Mr. Pastreich each testified that they interviewed some workers
during the July 19th visit regarding the restaurant's payment practices. The activity sheet states that
Robin Ho and Josh Pastreich again visited the restaurant on July 20, 2005, at which time they
learned that the restaurant was three pay periods behind for some employees.

1 25. By letter dated July 25, 2005, the OLSE issued a second interim order for relief to
2 mitigate violations of the MWO. Included with the letter was an additional notice and order that the
3 OLSE ordered to be posted. (OLSE Exhibit 8) The July 25, 2005 interim order states in pertinent
4 part:

5 "No later than August 10, 2005, the Golden Dragon Restaurant shall pay
6 to employees all wages due from June 1, 2005 to through July 31, 2005.
7 California Labor Code Section 204 requires that work performed between
8 the 1st and 15th day shall be paid no later than the 26th day in the
9 month that the work was performed, and that work performed between
10 the 16th day and the last day of the month shall be paid no later than the
11 10th day of the following month.

12 Failure to comply with this order by August 10, 2005 may result in an
13 order after hearing to pay an additional sum as an administrative penalty
14 in the amount of \$100 per day (\$50 payable to the City and \$50 payable
15 to each affected employee) for each day or portion thereof a violation
16 occurred.

17 A copy of this order shall be posted in English and Chinese in an area
18 frequented by employees where it may be easily read during the workday
19 and a copy made available to every employee upon request.

20 The Golden Dragon Restaurant is required to comply with both this Order
21 and the Order issued by the Office of Labor Standards Enforcement on
22 July 15, 2005."

23 The July 26, 2005 activity sheet entry states that Robin Ho and Josh Pastreich delivered the
24 "Additional Notice and Order" to the restaurant on that date.

25 26. According to the case activity sheet and their testimony at hearing, Robin Ho and
26 Josh Pastreich visited the restaurant on July 28, 2005 and found that neither the July 15, 2005
27 Interim Order nor the July 25, 2005 Additional Notice and Order were posted.

28 27. According to the case activity sheet and OLSE staff testimony, Francis Chan agreed
to pay the back wage assessment of \$59,849.43 during a meeting on August 17, 2005. Mr. Chan
proposed the first installment be paid in mid-September 2005, and the second in mid-October
2005. The OLSE staff agreed and explained that the payment would be made to the City and that
Golden Dragon would provide the names, addresses, and phone numbers for the 37 employees
identified in the audit so that the City could issue them checks for the back wages owed. The
OLSE also requested payroll records showing that Golden Dragon was current with its payroll.

1 28. By letter dated August 17, 2005, the OLSE confirmed the acceptance of Mr. Chan's
2 offer. (OLSE Exhibit 9) The letter states in pertinent part:

3 During the meeting, you proposed that the restaurant would like to pay the back
4 wage (\$59,849.43) in two installments. First installment will pay off 50% of the
5 total amount of back wages and it will be due in mid-September. The second
6 installment will pay off the other half, 50% of the total amount of back wage,
and it will be due in Mid-October. The money will be payable to the City and
County of San Francisco. You will confirm with us by this Friday (8/19/05) if Big
Hong, the owner agrees with this payment plan.

7 29. On September 15, 2005, in a telephone conversation with OLSE staff, Mr. Chan
8 requested on behalf of Golden Dragon a one-week extension to deliver the first one-half
9 installment of the total amount due for back wages. The OLSE granted this one-week extension by
10 letter dated on September 16, 2005. (OLSE Exhibit 10) The letter states in part:

11 The Office of Labor Standards Enforcement (the OLSE) hereby grants
12 you one more week extension. The new deadline is September 23, 2005.
13 However, if the owner of the restaurant fails to make the 1st installment
14 payment, which is \$29,924.72, payable to the City and County of San
15 Francisco to our office by the due day, this matter will be referred for a
formal hearing at which time the OLSE may order administrative penalties
of \$100 for each day or portion hereof each employee or person as to
whom the violation occurred or continued, pursuant to San Francisco
Administrative Code, Section 12R.7(b).

16 30. OLSE staff testified that Golden Dragon failed to make the agreed payment in
17 September 2005.

18 31. By letter dated October 6, 2005, the OLSE again noticed Golden Dragon of its back
19 wage determination, demanded payment of back wages by close of business October 21, 2005,
20 reminded the restaurant of the previous interim orders, and requested payroll records from March
21 16, 2005 to October 6, 2005. (OLSE Exhibit 11) The letter states in pertinent part:

22 "As previously noticed on September 16, 2005 the Office Labor
23 Standards Enforcement (the OLSE) has made a determination that
24 Golden Dragon Restaurant violated provisions of San Francisco
25 Administrative Code, Chapter 12R, Minimum Wage Ordinance (MWO) by
26 underpaying 38 employees \$59,849.43 during the period February 23,
27 2004 through March 15, 2005. The OLSE's determination is based on the
28 review of payroll records, interviews of employees, discussions with
managers and the OLSE's observation of business operations. The audit
summary detailing the amount owed is enclosed for your review.
Furthermore, OLSE also requests copies of restaurants payroll records,
timesheets and earning statements and cancel checks from March 16,

1 2005 to the present. These records are to be received by the OLSE by
2 the close of business October 21, 2005.”

3 Although the letter states that the OLSE identified 38 underpaid employees, the department
4 actually identified 37 underpaid employees.

5 32. The October 28, 2005 case activity sheet states that OLSE staff visited Golden
6 Dragon on that date to interview employees regarding the restaurant's payment practices. During
7 the site visit, the OLSE interviewed ten employees. All ten employees complained that they had not
8 been paid since mid-September, and they also complained that their checks could not be cashed.
9 The employees also complained that they did not get paid for overtime worked and that \$1.00 per
10 hour was deducted from their pay for meals. OLSE staff also advised Francis Chan that the
11 continued failure of Golden Dragon to abide by the MWO could lead to significant penalties.

12 33. Robin Ho testified that on October 29, 2005, an employee who declined to be
13 interviewed the day before telephoned the OLSE and made the same complaint as the other
14 employees. She further testified that the employees provided the OLSE with documents supporting
15 their complaints of the restaurant's failure to pay the employees. (OLSE Exhibit 12)

16 34. On December 12, 2005, the OLSE formally requested that the Controller's Office
17 conduct a hearing in this matter. (Hearing Officer's Exhibit 1)

18 35. On December 30, 2005, the OLSE again requested payroll records from March 16,
19 2005 to the date of that letter, and made a final offer for Golden Dragon to remedy the violation
20 before going to hearing. (OLSE Exhibit 15) OLSE staff testified that the restaurant failed to respond
21 to the December 30, 2005 letter.

22 36. The January 13, 2006 case activity sheet entry states that the San Francisco Tax
23 Collector's Office informed Robin Ho that the Golden Dragon Restaurant had not paid any
24 business tax since 1998, and that the business was operating without a business registration.

25 37. The January 20, 2006 entry states that restaurant owner Big Hong Ng and her son
26 visited the OLSE on that date to request the return of payroll documents. The entry states that Ms.
27 Ng's son informed the OLSE that the restaurant was "shut down" by the Department of Public
28 Health on January 17, 2006.

1 during the audit period of February 23, 2004 through March 15, 2005, and to also make written
2 findings concerning the restaurant's alleged issuance of bad paychecks and no paychecks in 2005
3 and 2006.

4 42. At the commencement of the April 24, 2006 hearing, and in response to the
5 undersigned hearing officer's inquiry regarding the scope of issues to be decided, Gregory de la
6 Pena, counsel for Golden Dragon owner Big Hong Ng, objected to the hearing officer making any
7 findings for the period after October 6, 2005, which is the date stated in the initial December 12,
8 2005 request from the OLSE to the Controller's Office to appoint a hearing officer for the purpose
9 of conducting a hearing regarding the restaurant's alleged violations of the MWO. However,
10 counsel did not articulate whether or how his client would be prejudiced if such findings were
11 made. Counsel for the OLSE pointed out that when the OLSE made the initial request for a
12 hearing, the department was unaware of any violations that occurred after October 6, 2005
13 because the 21 claimants alleging bad paychecks/no paychecks did not file their claims until
14 February 22, 2006.

15 43. The OLSE contends that it is proper for the hearing officer to make written findings
16 pertaining to the restaurant's payment practices through January 17, 2006 for the following
17 reasons: (1) the hearing officer specifically requested the parties to submit a written pre-hearing
18 statement setting forth the issues to be determined, which the OLSE did in a timely manner; (2) the
19 OLSE pre-hearing statement includes a request for the hearing officer to make written findings
20 regarding the alleged issuance of bad paychecks/no checks between 2005 and January 17, 2006,
21 when the restaurant closed for business; (3) Golden Dragon received proper notice of the OLSE's
22 request for findings regarding alleged violations through January 17, 2006, and the restaurant
23 failed to respond to the request even after the hearing officer extended the deadline to do so; (4) all
24 of the claimants who filed in February 2006 raise the same issue as the March 2005 claimants (i.e.
25 whether the restaurant paid the minimum wage under the MWO); and (5) Golden Dragon received
26 proper notice of the potential issues to be determined and had ample notice to be heard, and the
27 restaurant was therefore afforded proper due process. Finally, the OLSE argues that pursuant to
28

1 the Administrative Procedures Act (Cal. Govt. Code §§ 11507, 11516), which does not govern but
2 may provide guidance, if a party objects to amended or supplemental pleadings and shows
3 prejudice, the appropriate remedy is for the hearing officer to continue the hearing to provide the
4 party ample opportunity to respond to the amended or supplemental issues. In this case, the
5 Golden Dragon Restaurant failed to articulate whether or how it would be prejudiced if the hearing
6 officer made written findings for alleged violations through January 17, 2006.

7 44. At the April 24, 2006 hearing, the undersigned hearing officer ruled that the OLSE
8 would be permitted to submit evidence regarding alleged wage underpayments through January
9 17, 2006, which the OLSE did.

10 **Penalties Sought By The OLSE On Behalf Of The Claimants And Non-Claimant Employees,
11 And Payments Sought on Behalf Of The City**

12 45. Section 12.R.7(b) of the MWO provides that penalties may be assessed on behalf
13 of an employee when an employer fails to pay the minimum wage. Where the OLSE, after a
14 hearing that affords a suspected violator due process pursuant to Administrative Code Section
15 12.R.7(b), determines that a violation has occurred, it may order any appropriate relief including,
16 but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the
17 payment of an additional sum as an administrative penalty in the amount of \$50.00 to each
18 employee or person whose rights under the MWO were violated for each day or portion thereof
19 that the violation occurred or continued. Section 12.R.7(b) further provides that the OLSE may
20 also order a violating employer or person to pay to the City a sum of not more than \$50.00 for
21 each day or portion thereof and for each employee or person as to whom the violation occurred
22 or continued (\$50.00 per day multiplied by the number of underpaid employees).

23 46. Penalties and payments under Section 12R.7(b) are available for each day a
24 violation "occurred or continued." The OLSE interprets a violation of the MWO to *occur* on each
25 day that the MWO is violated. So, for example, a violation occurs each day an employer pays any
26 employee less than the local minimum wage. The OLSE has interpreted a violation of the MWO
27 to *continue* on each day that the violation is not remedied. So, for example, a violation continues
28 each day an employer fails to pay any employee the minimum wages that are owing. The OLSE

1 requests a determination of maximum penalties that may be assessed on behalf of the
2 employees, as well as the maximum payment that may be sought on behalf of the City, for the
3 period the violations continued through the first day of hearing on April 21, 2006.

4 47. The OLSE asserts that it will use any payment to the City to offset the cost of
5 implementation and enforcement of the MWO in general, pursuant to MWO Section 12R.7(b),
6 which states that payments "shall be allocated to the Agency and shall be used to offset the costs
7 of implementing and enforcing this Chapter." However, Section 12R.7(b) of the MWO more
8 specifically states that the OLSE may order payment "to compensate the City for the costs of
9 investigating and remedying the violation." The OLSE did not submit any evidence regarding the
10 cost of investigating and remedying the alleged violations at issues.

11 48. OLSE staff members Donna Levitt, Richard Waller, Josh Pastreich, and Robin Ho
12 each testified that of all of the cases investigated by the OLSE, the case involving the Golden
13 Dragon Restaurant is one of the most egregious in terms of the number of claims, the amount of
14 wages at issue, the ongoing nature of the alleged underpayments, and the lack of cooperation
15 from the employer to resolve the matter.

16 **OLSE's Calculation Of Wages Owed To Each Claimant And OLSE'S Calculation of 17 Penalties**

18 Min Shan Liu (Claimant #1)

19 49. Based on the claimant's testimony at the April 26, 2006 hearing and the
20 documentation submitted at hearing, Min Shan Liu began working at the restaurant in November
21 2003, and she quit on January 16, 2005. Ms. Liu testified that she worked on a part-time basis as
22 a dim sum seller, bus girl, hostess, and flyer distributor. She further testified that her work
23 schedule depended on her school schedule. The payroll records received by the OLSE from the
24 restaurant for Ms. Liu are scant and inconsistent. For example, the only time sheet provided to
25 the OLSE by the restaurant is for Ms. Liu's final day of work on January 16, 2005. (OLSE Exhibit
26 20) However, there are ADP payroll records for the period January 1, 2005 through February 28,
27 2005, which include payment through Ms. Liu's final day of work on January 16, 2005. (OLSE
28 Exhibit 21) Robin Ho of the OLSE testified that the inconsistency in payroll records is attributable,

1 in part, to the restaurant's practice of paying employee's in arrears. That testimony was
2 corroborated by the submission of a copy of a paycheck from the restaurant to Ms. Liu in the
3 amount of \$382.50, which is dated September 20, 2004 and indicates in the memo section that
4 the payment is for the period "4/16-5/2, 9/1-9/15/04." (OLSE Exhibit 44)

5 50. Ms. Liu credibly testified that she kept personal records of the time she worked for
6 the period September 2004 through January 16, 2005, and those records were admitted into
7 evidence. (OLSE Exhibits 1 & 44) By comparing the employee's time records with the ADP
8 Payroll records, the OLSE determined that Ms. Liu was owed a minimum wage in the amount of
9 \$2,107.47 for the period September 1, 2004 through January 16, 2005 (\$1,840.25 for work
10 performed in 2004 + \$267.22 for work performed in 2005 = \$2,107.47). Based on the
11 documentation available to the OLSE, Ms. Liu was paid a total of \$1,623.75 during the period at
12 issue, and the restaurant therefore owes her unpaid wages in the amount of \$483.72 (\$2,107.47 -
13 \$1,623.75 = \$483.72). Ms. Liu testified that she quit working at the restaurant because she was
14 having difficulty getting paid, which made her feel "useless."

15 51. The OLSE calculates maximum penalties owing to Ms. Liu in the amount of
16 \$29,900.00, which is calculated by multiplying \$50.00 per day for each day that the violation
17 continued, beginning on September 1, 2004 and continuing through the first day of hearing on
18 April 21, 2006 (\$50.00 X 598 days for the period September 1, 2004 through April 21, 2006 =
19 \$29,900.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks payment in the same
20 amount on behalf of the City pursuant to Section 12R.7(b) of the MWO.

21 Cong Hua Huang (Claimant #2)

22 52. At the April 26, 2006 hearing, claimant Cong Hua Huang testified that she worked
23 at the restaurant as a weekend bus person for the period July 2004 through March 2005. Ms.
24 Huang testified that she quit because she was having difficulty getting paid. Ms. Huang credibly
25 testified that Golden Dragon payroll records do not accurately reflect the number of hours she
26 worked during the following periods because the restaurant deducted one hour from her
27 timesheets for each 8 hours that she worked: September 16, 2004 through October 15, 2004, and
28 January 16, 2005 through March 31, 2005. The OLSE submitted employee payroll statements for

1 Ms. Huang through March 31, 2005, and the department calculated wages owed through March
2 31, 2005. However, the department has specifically requested findings only through the end of
3 the March 15, 2005 audit period, with the exception of those claimants who received bad
4 paychecks or no paychecks in 2005-2006.

5 53. Restaurant payroll records indicate that Ms. Huang worked 56 hours during the
6 period September 16, 2004 through October 15, 2004, and payroll records indicate she worked
7 219 hours during the period January 16, 2005 through March 31, 2005. (OLSE Exhibit 36-A)
8 However, Ms. Huang credibly testified that she actually worked 64.57 hours during the period
9 September 16, 2004 through October 15, 2004, and she worked 250.27 hours during the period
10 January 16, 2005 through March 31, 2005. Based on the number of hours claimed by Ms. Huang,
11 the OLSE determined that she was owed wages in the amount of \$548.85 for the period
12 September 16, 2004 through October 15, 2004 (64.57 hrs X \$8.50 minimum wage = \$548.85),
13 and she was owed wages in the amount of \$2,157.32 for the period January 16, 2005 through
14 March 31, 2005 (250.27 hrs X \$8.62 = \$2,157.32). The OLSE calculates the total wages owed for
15 the two periods to be in the amount of \$2,706.17 (\$548.85 for 2004 wages + \$2,157.32 for 2005
16 wages = \$2,706.17). Payroll records indicate that Ms. Huang received wages in the amount of
17 \$2,362.57, and the OLSE calculated that Golden Dragon owes the claimant wages in the sum of
18 \$344.99. However, the correct amount owed through March 31, 2005 would be \$343.60
19 (\$2,706.17 - \$2,362.57 = \$343.60). Since the OLSE specifically requested a determination of
20 wages owed for the audit period February 23, 2004 through March 15, 2005 for this claimant, the
21 amount of wages owed is recalculated as follows. Based on the records submitted by the OLSE,
22 the claimant was entitled to a sum of \$2,376.20 for work performed through March 15, 2005, and
23 she was paid a sum of \$2,073.80. Accordingly, the amount owed through March 15, 2005 equals
24 \$302.40 (\$2,376.20 - \$2,073.80 = \$302.40). The OLSE reserved the right to seek any additional
25 underpayments to which the claimant may be entitled for work performed after March 15, 2005.

26 54. The OLSE calculates maximum penalties owing to Ms. Huang in the amount of
27 \$29,150.00, which is calculated by multiplying \$50.00 per day for each day that the violation
28 continued, beginning on September 16, 2004 and continuing through the first day of hearing on

1 April 21, 2006 (\$50.00 X 583 days for the period 9/16/04 through 4/21/06 = \$29,150.00). (OLSE
2 Post-Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of
3 the City pursuant to Section 12R.7(b).

4 Raymond Yuen (Claimant #3)

5 55. At the April 26, 2006 hearing, claimant Raymond Yuen testified that he worked at
6 the Golden Dragon Restaurant as a food server from February 2003 until the second week of
7 March 2005 when he quit because he was having difficulty getting paid. Mr. Yuen testified that he
8 and other employees picketed the restaurant on or around March 5, 2005 as a means of
9 protesting the restaurant's failure to pay its workers. According to Mr. Yuen, the restaurant owed
10 him about 9 paychecks at the time of the picket. He testified that he received some of the pay that
11 was owed to him following the picket. The OLSE received comprehensive payroll documentation
12 from Golden Dragon for Mr. Yuen for the period February 23, 2004 through March 15, 2005.
13 (OLSE Exhibits 21, 22, & 32-A) Based on the employee's timesheets, the OLSE determined that
14 Mr. Yuen was owed minimum wages in the amount of \$13,810.10 for the period February 23,
15 2004 through March 15, 2005. (OLSE Exhibits 6 & 32-A; OLSE Post-Hearing Brief, Exhibits B &
16 C) This amount was calculated by taking into account the number of hours worked per pay
17 period, including all overtime hours. According to the restaurant's payroll records, Mr. Yuen was
18 paid in the sum of \$11,729.88 for work performed during that period. (OLSE Exhibit 21).
19 Accordingly, the OLSE calculates that the restaurant owes Mr. Yuen unpaid wages in the amount
20 of \$2,080.22 for work performed during the period February 23, 2004 through March 15, 2005
21 (\$13,810.10 owed - \$11,729.88 paid = \$2,080.22).

22 56. The OLSE calculates maximum penalties owing to Mr. Yuen in the amount of
23 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
24 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
25 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
26 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
27 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

28 Bi E. Xie (Claimant #4)

1 57. At the April 24, 2006 hearing, claimant Bi E. Xie testified that she began working as
2 a dim sum server at the Golden Dragon Restaurant in February 2004, and she continued to work
3 at the restaurant until she quit on or around February 15, 2005. However, Golden Dragon payroll
4 records indicate that Ms. Xie worked through February 28, 2005. (Exhibit 21) Ms. Xie credibly
5 testified that in 2004, she worked 90 hours per bi-monthly pay period, for which she earned a flat
6 rate of \$650.00. Payroll records corroborate the claimed earnings of \$650.00 per pay period.
7 (OLSE Exhibit 21) The OLSE calculated that Ms. Xie was underpaid \$115.00 per pay period
8 throughout most of 2004 because, at the minimum wage of \$8.50 per hour, her earnings should
9 have been in the amount of \$765.00 per pay period, instead of \$650.00 (90 hours X \$8.50/hr. =
10 \$765.00). Beginning at the end of December 2004, Ms. Xie was paid on an hourly basis and she
11 submitted timesheets to the restaurant beginning on December 23, 2004. (OLSE Exhibit 27-A) The
12 OLSE compared Golden Dragon timesheet records to the restaurant's payroll records to calculate
13 the amount of wages owed to Ms. Xie for the period December 23, 2004 through February 28,
14 2005, based on the number of hours worked. The OLSE calculated the total wages owing to Ms.
15 Xie under the MWO for the period February 23, 2004 through February 28, 2005 by subtracting the
16 amount she was paid during that period (\$15,987.03) from the amount she should have been paid
17 under the MWO (\$20,164.68). (OLSE Post-Hearing Brief, Exhibit B) Accordingly, the OLSE
18 calculates a sum of unpaid wages in the amount of \$4,177.65 for the period February 23, 2004,
19 when the MWO went into effect, through February 28, 2005, when she quit. Ms. Xie testified that
20 she experienced financial hardship while employed at the restaurant, and that she returned to
21 China on a temporary basis for medical care because she could not afford to be treated in San
22 Francisco.

23 58. The OLSE calculates maximum penalties owing to Ms. Xie in the amount of
24 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
25 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
26 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
27 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
28 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

1 Li Chan Huang (Claimant #5)

2 59. Claimant Li Chan Huang did not appear as a witness at any of the hearings. The
3 OLSE received comprehensive payroll documentation from Golden Dragon for claimant Huang
4 for the period February 23, 2004 through March 15, 2005. (OLSE Exhibits 21, 22) Based on the
5 claimant's timesheets obtained from the restaurant, the OLSE determined that the claimant was
6 owed minimum wages in the amount of \$8,875.33 for the period February 23, 2004 through
7 March 15, 2005. (OLSE Exhibit 6; OLSE Post-Hearing Brief, Exhibit C) This amount was
8 calculated by taking into account the number of hours worked per pay period, including all
9 overtime hours. According to the restaurant's payroll records, the claimant was paid the sum of
10 \$8,704.44 for work performed during that period. (OLSE Exhibit 21). The OLSE therefore
11 calculates that the restaurant owes the claimant unpaid wages in the amount of \$170.89 for work
12 performed during the period February 23, 2004 through March 15, 2005 (\$8,875.33 owed -
13 \$8,704.44 paid = \$170.89).

14 60. The OLSE calculates maximum penalties owing to claimant Huang in the amount
15 of \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
16 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
17 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
18 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
19 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

20 Yue Hua Mai (Claimant #6)

21 61. Claimant Yue Hua Mai did not appear as a witness at any of the hearings. The
22 OLSE received comprehensive payroll documentation from Golden Dragon for claimant Mai for
23 the period February 23, 2004 through March 15, 2005. (OLSE Exhibits 21, 22) Based on the
24 claimant's timesheets obtained from the restaurant, the OLSE determined that the claimant was
25 owed minimum wages in the amount of \$8,026.16 for the period February 23, 2004 through
26 March 15, 2005. (OLSE Exhibit 6; OLSE Post-Hearing Brief, Exhibit C) This amount was
27 calculated by taking into account the number of hours worked per pay period, including all
28 overtime hours. According to the restaurant's payroll records, the claimant was paid in the sum of

1 \$7,920.94 for work performed during that period. (OLSE Exhibit 21). Accordingly, the OLSE
2 calculates that the restaurant owes the claimant unpaid wages in the amount of \$105.22 for work
3 performed during the period February 23, 2004 through March 15, 2005 (\$8,026.16 owed -
4 \$7,920.94 paid = \$105.22).

5 62. The OLSE calculates maximum penalties owing to claimant Mai in the amount of
6 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
7 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
8 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
9 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
10 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

11 Xiao Min Chen (Claimant #7)

12 63. Claimant Xiao Min Chen did not appear as a witness at any of the hearings. The
13 OLSE received incomplete payroll documentation from Golden Dragon for claimant Chen for the
14 period October 1, 2004 through March 15, 2005. (OLSE Exhibits 21, 22) The OLSE also received
15 some time records from the claimant. (OLSE Exhibit 20) The OLSE calculated the wages owed
16 for the period October 1, 2004 through March 15, 2005 by reconciling restaurant timesheets with
17 payroll records to the extent possible, and by also considering the claimant's time records. The
18 OLSE determined that the claimant was owed minimum wages in the amount of \$3,187.62 for the
19 period October 1, 2004 through March 15, 2005. This amount was calculated by taking into
20 account the number of hours worked per pay period, including all overtime hours. The OLSE
21 further determined that the claimant was paid in the sum of \$2,017.89 for work performed during
22 that period. Accordingly, the OLSE calculates that the restaurant owes the claimant unpaid wages
23 in the amount of \$1,169.73 for work performed during the period October 1, 2004 through March
24 15, 2005 (\$3,187.62 owed - \$2,017.89 paid = \$1,169.73).

25 64. The OLSE calculates maximum penalties owing to claimant Chen in the amount of
26 \$28,400.00, which is calculated by multiplying \$50.00 per day for each day that the violation
27 continued, beginning on October 1, 2004 and continuing through the first day of hearing on April
28 21, 2006 (\$50.00 X 568 days for the period 10/1/04 through 4/21/06 = \$28,400.00). (OLSE Post-

1 Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of the City
2 pursuant to Section 12R.7(b).

3 Yat Yau Lam (Claimant #8)

4 65. Claimant Yat Yau Lam testified at the April 26, 2006 hearing that she worked at
5 the Golden Dragon Restaurant for the period June 30, 2002 through March 13, 2005. She further
6 testified that she quit after participating in the employee picket for payment of wages. The OLSE
7 received comprehensive payroll documentation from Golden Dragon for Ms. Lam for the period
8 February 23, 2004 through March 15, 2005. (OLSE Exhibits 21, 22, & 48-A) Based on the
9 claimant's timesheets obtained from the restaurant, the OLSE determined that Ms. Wong was
10 owed minimum wages in the amount of \$11,735.46 for the period February 23, 2004 through
11 March 15, 2005. (OLSE Exhibits 6 & 48-A; OLSE Post-Hearing Brief, Exhibit C) This amount was
12 calculated by taking into account the number of hours worked per pay period, including all
13 overtime hours. According to the restaurant's payroll records, the claimant was paid in the sum of
14 \$10,411.16 for work performed during that period. (OLSE Exhibit 21) Accordingly, the OLSE
15 calculates that the restaurant owes Ms. Lam unpaid wages in the amount of \$1,324.30 for work
16 performed during the period February 23, 2004 through March 15, 2005 (\$11,735.46 owed -
17 \$10,411.16 paid = \$1,324.30).

18 66. The OLSE calculates maximum penalties owing to Ms. Lam in the amount of
19 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
20 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
21 through the first day of hearing on April 21, 2006 ($\$50.00 \times 789$ days for the period 2/23/04
22 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
23 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

24 Yu Mei Hou (Claimant #9)

25 67. Claimant Yu Mei Hou requested to withdraw her claim from the OLSE following a
26 settlement with the employer in a state law claim.

27 Zhuo Hui Huang (Claimant #10)

28 68. Claimant Zhuo Hui Huang testified at the April 26, 2006 hearing that he worked at

1 the Golden Dragon Restaurant as a waiter from August 1996 until the restaurant closed on
2 January 17, 2006. The OLSE received comprehensive payroll documentation from Golden
3 Dragon for Mr. Huang for the period February 23, 2004 through March 15, 2005. (OLSE Exhibits
4 21, 22, & 35-A) Based on the employee's timesheets obtained from the restaurant, the OLSE
5 determined that Mr. Huang was owed minimum wages in the amount of \$16,413.62 for the period
6 February 23, 2004 through March 15, 2005. (OLSE Exhibits 6 & 35-A; OLSE Post-Hearing Brief,
7 Exhibit C) This amount was calculated by taking into account the number of hours worked per
8 pay period, including all overtime hours. According to the restaurant's payroll records, Mr. Huang
9 was paid in the sum of \$13,524.15 for the period February 23, 2004 through March 15, 2005.
10 (OLSE Exhibit 21). Accordingly, the OLSE calculates that the restaurant owes Mr. Huang unpaid
11 wages in the amount of \$2,889.47 for work performed during the period February 23, 2004
12 through March 15, 2005 (\$16,413.62 owed - \$13,524.15 paid = \$2,889.47).

13 69. In addition to calculating the amount of unpaid minimum wages for work performed
14 for the period February 23, 2004 through March 15, 2005, the OLSE also calculates that the
15 restaurant owes Mr. Huang wages in the amount of \$4,263.86 for bad paychecks and missing
16 paychecks for the period October 1, 2005 through January 17, 2006. (OLSE Post-Hearing Brief,
17 Exhibit B) The claimant credibly testified that he was able to cash only one of the three checks he
18 received after October 1, 2005, and the other two checks bounced. Copies of the bounced
19 checks were admitted into evidence. (OLSE Exhibit 35-A) The bad paychecks were for combined
20 gross earnings of \$1,340.41 for work performed during the pay period from October 1, 2005
21 through October 15, 2005 (gross earnings of \$749.94), and the pay period from November 16,
22 2005 through November 30, 2005 (gross earnings of \$590.47). The OLSE calculated that Mr.
23 Huang should have earned gross minimum wages in the amount of \$2,297.23 for the 266.5 hours
24 of work performed during the following pay periods for which no paychecks were issued: October
25 16, 2005 through October 30, 2005 (93.5 hours); December 1, 2005 through December 15, 2005
26 (75.5 hours); and December 16, 2005 through December 31, 2005 (97.5 hours). That amount
27 was calculated by multiplying 266.5 hours of work by the 2005 minimum wage of \$8.62. The
28 OLSE further determined that based on restaurant records, Mr. Huang worked 71 hours in

1 January 2006, for which he received no pay. Since the minimum wage under the MWO is \$8.82
2 in 2006, the wages owed for the period January 1, 2006 through January 17, 2006 were
3 calculated to be in the amount of \$626.22 (71 hours X \$8.82 = \$626.22). Therefore, the OLSE
4 calculates a sum owed in the amount of \$4,263.86 for the period October 1, 2005 through
5 January 17, 2006 (\$1,340.41 in bad paychecks + \$2,297.23 for unpaid wages for October and
6 December 2005 + \$626.22 for unpaid wages for January 2006 = \$4,263.86). The OLSE reserved
7 the right to establish that additional wages may be owed during the period October 1, 2005
8 through January 17, 2006, if payroll records show that the claimant was not paid minimum wages
9 during the two pay periods for which bad paychecks issued, or if records show that the claimant
10 worked overtime during the relevant period. The OLSE calculates that the restaurant owes the
11 claimant combined wages in the amount of \$7,153.33 (\$2,889.47 for the period 2/23/04 through
12 3/15/05 + \$4,263.86 for the period 10/1/05 to 1/17/06 = \$7,153.33). Mr. Huang testified that he
13 was stressed and worried during the period that he received no compensation for the work he
14 performed.

15 70. The OLSE calculates maximum penalties owing to Mr. Huang in the amount of
16 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
17 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
18 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
19 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
20 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

21 Yi Chao Zhao (Claimant #11)

22 71. At the April 24, 2006 hearing, claimant Yi Chao Zhao testified that he began
23 working as a dishwasher at the Golden Dragon Restaurant in December 1997, and he continued
24 to work at the restaurant until it closed on January 17, 2006. Mr. Zhao testified that he generally
25 worked 6 days per week from 6:00 AM to 2:00 PM. The OLSE received comprehensive payroll
26 documentation from Golden Dragon for Mr. Zhao for the period February 23, 2004 through March
27 15, 2005. (OLSE Exhibits 21, 22, & 25-A) Based on restaurant timesheet records, the accuracy of
28 which were verified by the claimant, the OLSE determined that Mr. Zhao was owed minimum

1 wages in the amount of \$24,296.92 for the period February 23, 2004 through March 15, 2005.
2 (OLSE Exhibit 6 & 25-A; OLSE Post-Hearing Brief, Exhibit C) This amount was calculated by
3 taking into account the number of hours worked per pay period, including all overtime hours.
4 According to the restaurant's payroll records, Mr. Zhao was paid in the sum of \$18,735.93 during
5 that period. Accordingly, the OLSE calculates that the restaurant owes Mr. Zhao unpaid wages in
6 the amount of \$5,560.99 for work performed during the period February 23, 2004 through March
7 15, 2005 ($\$24,296.92$ owed - $\$18,735.93$ paid = $\$5,560.99$).

8 72. In addition to calculating the minimum wages owed for work performed for the
9 period February 23, 2004 through March 15, 2005, the OLSE also determined that Mr. Zhao was
10 entitled to minimum wages in the sum of \$5,501.92 for work performed during the period
11 September 1, 2005 through January 17, 2006 for which he received either no paychecks or bad
12 paychecks from the restaurant. (OLSE Post-Hearing Brief, Exhibit B) The OLSE submitted copies
13 of two paychecks, dated October 24, 2005 and December 10, 2005, which Mr. Zhao credibly
14 testified he was unable to cash due to insufficient funds. (OLSE Exhibit 25-A) Mr. Zhao further
15 credibly testified that he received no other paychecks for work performed after September 1,
16 2005. The OLSE used restaurant timesheets to determine the number of hours worked from
17 September 1, 2005 through January 17, 2006, and the number of hours worked was multiplied by
18 the minimum wage under the MWO ($\$8.62/\text{hr.}$ in 2005 and $\$8.82/\text{hr.}$ in 2006) to determine the
19 minimum wage earned during that period. In sum, the OLSE calculates that the restaurant owes
20 the claimant unpaid wages for work performed in the amount of $\$11,062.91$ ($\$5,560.99$ for the
21 period 2/23/04 through 3/15/05 + $\$5,501.92$ for the period 9/1/05 to 1/17/06 = $\$11,062.91$). Mr.
22 Zhao testified that he was required to borrow money from friends and family to pay for his wife's
23 medical needs after the restaurant stopped paying him in September 2005.

24 73. The OLSE calculates maximum penalties owing to Mr. Zhao under the MWO in the
25 amount of $\$39,450.00$, which is calculated by multiplying $\$50.00$ per day for each day that the
26 violation continued, beginning on February 23, 2004 when the MWO went into effect, and
27 continuing through the first day of hearing on April 21, 2006 ($\$50.00 \times 789$ days for the period
28 2/23/04 through 4/21/06 = $\$39,450.00$). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also

1 seeks payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

2 Helen Yu (Claimant #12)

3 74. At the April 24, 2006 hearing, claimant Helen Yu testified that she first worked at
4 the Golden Dragon Restaurant as a server from 1981 to 1988. She further testified that she was
5 rehired in 1995 and continued in her employment until the restaurant closed on January 17, 2006.
6 Ms. Yu testified that she generally worked 6 days per week for about 4 to 10 hours per shift. The
7 OLSE received comprehensive payroll documentation from Golden Dragon for Ms. Yu for the
8 period February 23, 2004 through March 15, 2005. (OLSE Exhibits 21, 22, & 29-A) Based on the
9 employee's timesheets obtained from the restaurant, the OLSE determined that Ms. Yu was
10 owed minimum wages in the amount of \$23,183.37 for work performed during the period
11 February 23, 2004 through March 15, 2005. (OLSE Exhibit 6 & 29) This amount was calculated
12 by taking into account the number of hours worked per pay period, including all overtime and
13 double time hours. According to the restaurant's payroll records, Ms. Yu was paid in the sum of
14 \$18,403.17 for the period February 23, 2004 through March 15, 2005. (OLSE Exhibit 21).
15 Accordingly, the OLSE calculates that the restaurant owes Ms. Yu unpaid wages in the amount of
16 \$4,780.20 for work performed during the period February 23, 2004 through March 15, 2005
17 (\$23,183.37 owed - \$18,403.17 paid = \$4,780.20).

18 75. In addition to calculating the minimum wages owed for work performed for the
19 period February 23, 2004 through March 15, 2005, the OLSE also determined that Ms. Yu was
20 entitled to minimum wages in the sum of \$5,489.99 during the period September 1, 2005 through
21 January 17, 2006 for which she received either no paychecks or bad paychecks from the
22 restaurant. The OLSE submitted a copy of a paycheck dated October 24, 2005 which Ms. Yu
23 credibly testified she was unable to cash due to insufficient funds. (OLSE Exhibit 29-A) Ms. Yu
24 further credibly testified that she received no other paychecks for work performed after
25 September 1, 2005. The OLSE used timesheets kept by Ms. Yu, which she authenticated at
26 hearing, to determine the number of hours worked and minimum wages owed to the claimant in
27 the amount of \$5,489.99 for the period from September 1, 2005 through January 17, 2006. In
28 sum, the OLSE calculates that the restaurant owes the claimant unpaid wages for work

1 performed in the amount of \$10,270.19 (\$4,780.20 for the period 2/23/04 through 3/15/05 +
2 \$5,489.99 for the period 9/1/05 to 1/17/06 = \$10,270.19). Ms. Yu testified that she did not have
3 enough money to pay for routine family needs after the restaurant stopped paying her.

4 76. The OLSE calculates maximum penalties owing to Ms. Yu in the amount of
5 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
6 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
7 through the first day of hearing on April 21, 2006 ($\$50.00 \times 789$ days for the period 2/23/04
8 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
9 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

10 Rui Hua Wu (Claimant #13)

11 77. Claimant Rui Hua Wu testified at the June 9, 2006 hearing that she worked at the
12 Golden Dragon Restaurant as a dim sum server from April 2005 through approximately January
13 15, 2006. She credibly testified that she worked 70 hours per pay period. Ms. Wu also credibly
14 testified that she received two paychecks in August 2005 that bounced, and she received a third
15 paycheck check in December 2005 that also bounced. Copies of the checks were submitted by
16 the OLSE. (OLSE Exhibit 49) The claimant testified that the August 2005 checks were for work
17 performed in July 2005, and the December check was for work performed during the second half
18 of November 2005. Ms. Wu further credibly testified that the restaurant failed to pay her for the
19 following pay periods: November 1, 2005 through November 15, 2005; December 1, 2005
20 through December 15, 2005; December 16, 2005 through December 31, 2005; and January 1,
21 2006 through January 15, 2006. The OLSE calculates that, based on 70 hours of work per pay
22 period, Ms. Wu earned gross wages in the amount of \$603.40 (70 hours \times \$8.62/hr. = \$603.40).
23 The department further calculates that since the employer issued 3 bad paychecks and failed to
24 issue checks for 4 pay periods, the claimant is owed wages in the amount of \$4,223.80 ($\603.40
25 \times 7 pay periods = \$4,223.80). It is noted that the OLSE failed to properly calculate the amount of
26 wages for the period January 1, 2006 through January 15, 2006, since the minimum wage in
27 2006 is \$8.82 per hour instead of \$8.62. The claimant may therefore be entitled to more wages
28 than the amount sought by the OLSE. However, no determination is made herein concerning any

1 additional amounts that may be owed. The OLSE reserved the right to establish in the future that
2 additional wages may be owed for work performed during this period.

3 78. Although the OLSE calculates maximum penalties owing to Ms. Wu in the amount
4 of \$19,300.00 for the period July 1, 2005 through April 21, 2006, the maximum amount is actually
5 \$14,750.00 ($\50.00×295 days for the period 7/1/05 through 4/21/06 = \$14,750.00). (OLSE Post-
6 Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of the City
7 pursuant to Section 12R.7(b).

8 Wo Han Huang (Claimant #14)

9 79. Claimant Wo Han Huang testified at the April 26, 2006 hearing that he worked at
10 the Golden Dragon Restaurant as a busboy from April 16, 2004 until January 8, 2006. The OLSE
11 received comprehensive payroll documentation from Golden Dragon for Mr. Huang for the period
12 April 16, 2004 through March 15, 2005. (OLSE Exhibits 21, 22, & 45-A) Based on employee
13 timesheets, the OLSE determined that Mr. Huang was owed minimum wages in the amount of
14 \$19,321.39 for the period April 16, 2004 through March 15, 2005. (OLSE Exhibits 6 & 45-A;
15 OLSE Post-Hearing Brief, Exhibit C) This amount was calculated by taking into account the
16 number of hours worked per pay period, including all overtime and double time hours. According
17 to the restaurant's payroll records, Mr. Huang was paid in the sum of \$12,709.50 for work
18 performed during that period. (OLSE Exhibit 21). Accordingly, the OLSE calculates that the
19 restaurant owes Mr. Huang unpaid wages in the amount of \$6,611.89 for work performed during
20 the period April 16, 2004 through March 15, 2005 ($\$19,321.39$ owed - $\$12,709.50$ paid =
21 $\$6,611.89$).

22 80. In addition to calculating minimum wages owed for work performed for the period
23 April 16, 2004 through March 15, 2005, the OLSE also determined that the restaurant owes Mr.
24 Huang wages in the amount of \$4,879.91 for bad paychecks and missing paychecks for the pay
25 periods October 1, 2005 through January 15, 2006. (OLSE Post-Hearing Brief, Exhibit B) The
26 claimant credibly testified that he was unable to cash either of the two checks he received after
27 October 1, 2005, and he received no paychecks for 6 pay periods during which he worked.
28 Copies of the bounced checks, dated October 10, 2005 and December 10, 2005, were admitted

1 into evidence. (OLSE Exhibit 45-A) Using time records maintained by the claimant, the OLSE
2 calculated that he worked 539 hours between October 1, 2005 and December 31, 2005 for which
3 time he was not paid. The department further determined that he was not paid for 26.5 hours
4 worked in January 2006. Based on those determinations, the OLSE found that the restaurant
5 owes the claimant minimum wages of \$4,646.18 for work performed between October 1, 2005
6 and December 31, 2005 (539 hrs. X \$8.62 minimum wage = \$4,646.18), plus minimum wages in
7 the amount of \$233.73 for work performed in January 2006 (26.5 hrs. X \$8.82 minimum wage =
8 \$233.73). Accordingly, the combined amount found to be owing for the period in which bad
9 paychecks and/or no checks issued is \$4,879.91 ($\$4,646.18 + \$233.73 = \$4,879.91$). In sum, the
10 OLSE calculates that the restaurant owes the claimant unpaid wages for work performed in the
11 amount of \$11,491.80 ($\$6,611.89$ for the period 4/16/04 through 3/15/05 + $\$4,879.91$ for the
12 period 10/1/05 to 1/8/06 = $\$11,491.80$). Mr. Huang testified that his wife, Hua Yue Mai, also
13 worked at the Golden Dragon, and it was stressful for the entire family when the restaurant
14 stopped paying him.

15 81. The OLSE calculates maximum penalties owing to Mr. Huang in the amount of
16 \$36,800.00, which is calculated by multiplying \$50.00 per day for each day that the violation
17 continued, beginning on April 16, 2004, and continuing through the first day of hearing on April
18 21, 2006 ($\$50.00 \times 736$ days for the period 4/16/04 through 4/21/06 = $\$36,800.00$). (OLSE Post-
19 Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of the City
20 pursuant to Section 12R.7(b).

21 Yu Zhen Jiang (Claimant #15)

22 82. At the April 24, 2006 hearing, Yu Zhen Jiang testified that she worked full-time for
23 Big Hong Ng as her personal housekeeper from December 2003 through January 8, 2006, and
24 she also worked in the restaurant for a few hours each week on an as-needed basis. She credibly
25 testified that she worked 6 days per week for approximately 12 hours per day, and she received
26 gross wages through the restaurant's payroll in the amount of \$1,400.00 per month (\$700.00
27 gross per pay period). Ms. Jiang testified that she received only one paycheck after October 1,
28 2005, which she was unable to cash. A copy of the Golden Dragon payroll check was admitted

1 into evidence. (OLSE Exhibit 30) The check is dated December 10, 2005 and is in the net amount
2 of \$612.82.

3 83. The OLSE calculates that during the period October 1, 2005 through January 8,
4 2006 Ms. Jiang received either no paychecks or bad paychecks in the amount of \$4,700.00 (6
5 pay periods X \$700.00 for 10/1/05 to 12/31/05, plus \$400.00 for 1/1/06 to 1/8/06 = \$4,700.00). It
6 is noted that, based on the claimant's credible testimony, she is entitled to more wages than the
7 amount sought by the OLSE. However, no determination is made herein regarding additional
8 wages to which the claimant may be entitled. The OLSE reserved the right to establish that
9 additional wages may be owed to the claimant for work performed during the relevant period.

10 84. The OLSE calculates maximum penalties owing to Ms. Jiang in the amount of
11 \$10,150.00, which is calculated by multiplying \$50.00 per day for each day that the violation
12 continued, beginning on October 1, 2005 and continuing until the first day of hearing on April 21,
13 2006 ($\$50.00 \times 203 \text{ days} = \$10,150.00$). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also
14 seeks payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

15 Jie Chang Xu (Claimant #16)

16 85. Claimant Jie Chang Xu testified at the April 26, 2006 hearing that she worked at
17 the Golden Dragon Restaurant from March 2004 through January 17, 2006. The OLSE received
18 comprehensive payroll documentation from Golden Dragon for Ms. Xu for the period March 1,
19 2004 through March 15, 2005. (OLSE Exhibits 21, 22, & 46-A) Based on timesheet records, the
20 OLSE determined that Ms. Xu was owed minimum wages in the amount of \$10,516.84 for the
21 period March 1, 2004 through March 15, 2005. (OLSE Exhibits 6 & 46-A; OLSE Post-Hearing
22 Brief, Exhibit C) This amount was calculated by taking into account the number of hours worked
23 per pay period, including all overtime and double time hours. According to the restaurant's payroll
24 records, Ms. Xu was paid in the sum of \$9,342.25 for work performed during the period March 1,
25 2004 through March 15, 2005. (OLSE Exhibit 21). Accordingly, the OLSE calculates that the
26 restaurant owes Ms. Xu unpaid wages in the amount of \$1,174.59 for work performed during the
27 period March 1, 2004 through March 15, 2005 ($\$10,516.84 \text{ owed} - \$9,342.25 \text{ paid} = \$1,174.59$).

28 86. In addition to calculating the minimum wages owed for work performed for the

1 period March 1, 2004 through March 15, 2005, the OLSE also determined that the restaurant
2 owes Ms. Xu wages in the amount of \$5,019.35 for bad paychecks and missing paychecks for
3 work performed between July 15, 2005 and January 17, 2006. (OLSE Post-Hearing Brief, Exhibit
4 B) The claimant credibly testified that she was unable to cash 5 paychecks she received from the
5 restaurant, and the OLSE submitted copies of the checks, which have the following payment
6 dates: August 10, 2005 (for work performed during the period 7/15/05 – 7/31/05); September 22,
7 2005 (for work performed during the period 9/1/05 – 9/15/05); October 10, 2005 (for work
8 performed 9/16/05 – 9/30/05); October 24, 2005 (for work performed 10/1/05 to 10/15/05); and
9 December 10, 2005 (for work performed 11/15/05 to 11/30/05). (OLSE Exhibit 46-A) The net
10 amount of the checks is \$2,027.40, which the OLSE calculated to equal unpaid gross wages in
11 the amount of \$2,499.91. Ms. Xu further credibly testified that she received no paychecks for the
12 following 4 pay periods, during which she worked 70 hours per period: October 16, 2005 through
13 October 31, 2005; November 1, 2005 through November 15, 2005; December 16, 2005 through
14 December 31, 2005; and January 1, 2006 through January 15, 2006. The OLSE calculated that,
15 at an hourly rate of \$8.62, she is owed gross wages in the amount of \$2,413.60 for the 4 missing
16 paychecks. It is noted that the OLSE calculation does not account for the fact that the minimum
17 wage was \$8.82 and not \$8.62 during the pay period January 1, 2006 through January 15, 2006,
18 and the claimant may therefore be entitled to additional wages for work performed during that pay
19 period. In addition, the claimant credibly testified that she was not paid for 12 hours of work
20 performed on January 16-17, 2006, for which the OLSE calculates she is owed additional gross
21 wages of \$105.84 (12 hrs. X \$8.82 minimum wage = \$105.84). Accordingly, the OLSE calculates
22 wages owed in the amount of \$5,019.35 for the period in which bad paychecks and/or no checks
23 issued (\$2,499.91 bad paychecks + \$2,413.60 for 4 missing paychecks + \$105.84 for 1/16-17/06
24 = \$5,019.35). The OLSE reserved the right to establish that additional wages may be owed
25 during the period which bad paychecks or no paychecks issued, if payroll records show that the
26 claimant was not paid minimum wage during the period or if records show that the claimant
27 worked overtime during the period. In sum, the OLSE calculates that the restaurant owes the
28 claimant unpaid wages for work performed in the amount of \$6,193.94 (\$1,174.59 for the period

1 3/1/04 through 3/15/05 + \$5,019.35 for the period 7/15/05 to 1/17/06 = \$6,193.94).

2 87. The OLSE calculates maximum penalties owing to Ms. Xu in the amount of
3 \$39,100.00, which is calculated by multiplying \$50.00 per day for each day that the violation
4 continued, beginning on March 1, 2004, and continuing through the first day of hearing on April
5 21, 2006 (\$50.00 X 782 days for the period 3/1/04 through 4/21/06 = \$39,100.00). (OLSE Post-
6 Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of the City
7 pursuant to Section 12R.7(b).

8 Dong Quan He (Claimant #17)

9 88. At the April 26, 2006 hearing, claimant Dong Quan He testified that he worked at
10 the Golden Dragon Restaurant as a waiter from June 1999 until the restaurant closed on January
11 17, 2006. The OLSE received comprehensive payroll documentation from Golden Dragon for Mr.
12 He for the period February 23, 2004 through March 15, 2005. (OLSE Exhibits 21, 22, & 33) Mr.
13 He's timesheets indicate that he did not work for the period February 21, 2005 through March 15,
14 2005. Based on the employee's timesheets the OLSE calculates that Mr. He was owed minimum
15 wages in the amount of \$15,187.11 for work performed during the period February 23, 2004
16 through February 28, 2005. (OLSE Exhibits 6 & 33; OLSE Post-Hearing Brief, Exhibits B & C)
17 This amount was calculated by taking into account the number of hours worked per pay period,
18 including all overtime and double time hours. According to the restaurant's payroll records, Mr. He
19 was paid in the sum of \$12,805.39 for the period February 23, 2004 through February 28, 2005.
20 (OLSE Exhibit 21). Accordingly, the OLSE calculates that the restaurant owes Mr. He unpaid
21 minimum wages in the amount of \$2,381.72 for work performed during the period February 23,
22 2004 through February 28, 2005 (\$15,187.11 owed - \$12,805.39 paid = \$2,381.72).

23 89. In addition to calculating the minimum wages owed for work performed for the
24 period February 23, 2004 through February 28, 2005, the OLSE also determined that the
25 restaurant owes Mr. He wages in the amount of \$4,639.56 for bad paychecks and missing
26 paychecks for the period October 1, 2005 through January 17, 2006. The claimant credibly
27 testified that he was able to cash only one of the three checks he received after October 1, 2005
28 and the other two checks bounced. Copies of the checks were admitted into evidence. (OLSE

1 Exhibit 33) He further testified that he received no other checks during after October 1, 2005 even
2 though he continued to work each week. The OLSE calculates that the gross payment for each
3 full pay period after October 1, 2005 would have been in the amount of \$758.56, and there were a
4 total of 6 full pay periods for which the claimant was not paid, including the two pay periods for
5 which he received bad paychecks. Thus, the OLSE calculates that the claimant is owed unpaid
6 wages of \$4,551.36 ($\$758.56 \times 6 = \$4,551.36$). However, the OLSE calculation does not
7 account for the fact that the minimum wage was \$8.82 and not \$8.62 during the pay period
8 January 1, 2006 through January 15, 2006. It is therefore noted that the claimant may be entitled
9 to additional wages for that pay period. In addition, the claimant worked January 16, 2006 and
10 January 17, 2006 without compensation, which the OLSE calculated to be an additional sum
11 owing in the amount of \$88.20 (5 hrs. per day X 2 days X \$8.82 minimum wage = \$88.20).
12 Therefore, the OLSE calculates a sum owed in the amount of \$4,639.56 for the period October 1,
13 2005 through January 17, 2006 ($\$4,551.36 + \$88.20 = \$4,639.56$). The OLSE reserved the right
14 to establish that additional wages may be owed during the period which bad paychecks or no
15 paychecks issued. The OLSE claims the restaurant owes the claimant a combined sum of
16 \$7,021.28 ($\$2,381.72$ for the period 2/23/04 through 2/28/05 + \$4,639.56 for the period 10/1/05 to
17 1/17/06 = \$7,021.28). Mr. He testified that it was difficult for him to pay rent during the last several
18 months of his employment at Golden Dragon because he was not being paid.

19 90. The OLSE calculates maximum penalties owing to Mr. He in the amount of
20 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
21 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
22 through the first day of hearing on April 21, 2006 ($\$50.00 \times 789$ days for the period 2/23/04
23 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
24 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

25 Run Jin Liang (Claimant #18)

26 91. At the April 24, 2006 hearing, claimant Run Jin Liang testified that she worked as a
27 salesperson at the Golden Dragon Restaurant until it closed on January 17, 2006. Ms. Liang
28 testified that she generally worked 6 days per week. The OLSE received comprehensive payroll

1 documentation from Golden Dragon for Ms. Liang for the period February 23, 2004 through
2 March 15, 2005. (OLSE Exhibits 21, 22, & 28) Based on the restaurant's timesheets, the
3 accuracy of which were verified by the claimant, the OLSE calculated that Ms. Liang was owed
4 minimum wages in the amount of \$18,868.67 for work performed during the period February 23,
5 2004 through March 15, 2005. (OLSE Exhibit 6 & 28) This amount was calculated by taking into
6 account the number of hours worked per pay period, including all overtime and double time
7 hours. According to payroll records, Ms. Liang was paid in the sum of \$15,722.20 for the period
8 February 23, 2004 through March 15, 2005. (OLSE Exhibit 21). Accordingly, the OLSE calculates
9 that the restaurant owes Ms. Liang unpaid wages in the amount of \$3,146.47 for work performed
10 during the period February 23, 2004 through March 15, 2005 ($\$18,868.67$ owed - $\$15,722.20$ paid
11 = $\$3,146.47$).

12 92. Ms. Liang credibly testified that she received either bad paychecks or no checks
13 for the period September 1, 2005 through January 17, 2006. She testified that she received only
14 four paychecks instead of nine paychecks during that period, and the four paychecks bounced.
15 Copies of the bounced paychecks were submitted into evidence. (OLSE Exhibit 28) Based on Ms.
16 Liang's time records, the OLSE calculated that her gross payment should have been in the
17 amount of \$617.40 for each pay period from September 1, 2005 through January 17, 2006, and
18 that the restaurant therefore owes her wages in the amount of \$5,556.60 for work performed
19 during that period ($\$617.40 \times 9$ pay periods = $\$5,556.60$). The OLSE calculation failed to account
20 for the fact that minimum wage increased from \$8.62 to \$8.82 effective January 1, 2006.
21 However, the OLSE reserved the right to establish that additional wages may be owed during the
22 period which bad paychecks or no paychecks issued. In sum, the OLSE seeks combined wages
23 in the amount of \$8,703.07 on behalf of the claimant ($\$3,146.47$ for the period 2/23/04 to 3/15/05
24 + $\$5,556.60$ for the period 9/1/05 to 1/17/06 = $\$8,703.07$). Ms. Liang testified that it was
25 especially upsetting for her children during the period that she was not paid by the restaurant
26 because she was barely able to provide them with basic necessities.

27 93. The OLSE calculates maximum penalties owing to Ms. Liang in the amount of
28 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation

1 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
2 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
3 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
4 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

5 Ming Bang Feng (Claimant #19)

6 94. Claimant Ming Bang Feng testified at the April 26, 2006 hearing that he worked at
7 the Golden Dragon Restaurant as a dishwasher and dim sum steamer for the period February 20,
8 2004 through January 17, 2006. The OLSE received comprehensive payroll documentation from
9 Golden Dragon for Mr. Feng for the period February 23, 2004 through March 15, 2005. (OLSE
10 Exhibits 21, 22, & 37-A) Based on the employee's timesheet records, the OLSE determined that
11 Mr. Feng was owed minimum wages in the amount of \$18,593.81 for work performed during the
12 period February 23, 2004 through March 15, 2005. (OLSE Exhibits 6 & 37-A; OLSE Post-Hearing
13 Brief, Exhibit C) This amount was calculated by taking into account the number of hours worked
14 per pay period, including all overtime and double time hours. According to the restaurant's payroll
15 records, Mr. Feng was paid in the sum of \$15,244.39 for the period February 23, 2004 through
16 March 15, 2005. (OLSE Exhibit 21). Accordingly, the OLSE calculates that the restaurant owes
17 Mr. Feng unpaid wages in the amount of \$3,349.42 for work performed during the period
18 February 23, 2004 through March 15, 2005 (\$18,593.81 owed - \$15,244.39 paid = \$3,349.42).

19 95. In addition to calculating the amount of unpaid wages for work performed for the
20 period February 23, 2004 through March 15, 2005, the OLSE also calculates that the restaurant
21 owes Mr. Feng minimum wages in the amount of \$7,021.08 for bad paychecks and missing
22 paychecks for the period September 1, 2005 through January 17, 2006. (OLSE Post-Hearing
23 Brief, Exhibit B) The claimant credibly testified that he was unable to cash any of the 4 paychecks
24 he received after September 1, 2005, and he received no paychecks for 5 full pay periods plus
25 his last two days of work. The OLSE submitted copies of the 4 paychecks that bounced. (OLSE
26 Exhibit 37-A) Based on Mr. Feng's credible testimony, he worked 88 hours per pay period
27 between September 1, 2005 and January 15, 2006 and he worked a total of 22 hours on January
28 16-17, 2006. The pay stub for the pay period July 16, 2005 to July 31, 2005 corroborates Mr.

1 Feng's testimony and shows that he was paid for 88 hours at the rate of \$8.62, for gross earnings
2 in the amount of \$758.56. (OLSE Exhibit 37-A) The OLSE calculated the wages owed to Mr.
3 Feng for the period September 1, through January 15, 2006 by multiplying \$758.56 by 9 pay
4 periods to arrive at the sum of \$6,827.04. It is noted that the OLSE calculation does not account
5 for the fact that the minimum wage was \$8.82 and not \$8.62 during the pay period January 1,
6 2006 through January 15, 2006, and the claimant may therefore be entitled to additional wages
7 for work performed during that pay period. The OLSE calculated that the restaurant owes the
8 claimant wages of \$194.04 for 22 hours of work performed on January 16, 2006 and January 17,
9 2006 (22 hrs X \$8.82 = \$194.04). Accordingly, the department calculates that Mr. Feng is owed
10 \$6,944.04 for unpaid wages for the period September 1, 2005 through January 17, 2006
11 (\$6,750.00 + \$194.04 = \$6,944.04). The OLSE reserved the right to establish that additional
12 wages may be owed during the period which bad paychecks or no paychecks issued, if payroll
13 records show that the claimant was not paid minimum wage during the period or if records show
14 that the claimant worked overtime during the period. In sum, the OLSE calculates that the
15 restaurant owes the claimant unpaid wages for work performed in the amount of \$10,293.46
16 (\$3,349.42 for the period 2/23/04 through 3/15/05 + \$6,944.04 for the period 9/1/05 to 1/17/06 =
17 \$10,293.46). Mr. Feng testified that he had to borrow money from family members after the
18 restaurant stopped paying him.

19 96. The OLSE calculates maximum penalties owing to Mr. Feng in the amount of
20 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
21 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
22 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
23 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
24 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

25 Su Chan Li (Claimant #20)

26 97. Claimant Su Chan Li testified at the April 26, 2006 hearing that she worked at the
27 Golden Dragon Restaurant as a dishwasher beginning in 2000 until on or around December 3,
28 2005. The OLSE received comprehensive payroll documentation from Golden Dragon for Ms. Li

1 for the period February 23, 2004 through March 15, 2005. (OLSE Exhibits 21, 22, & 42-A) Based
2 on the employee's timesheet records, the OLSE determined that Ms. Li was owed minimum
3 wages in the amount of \$11,130.76 for work performed during the period February 23, 2004
4 through March 15, 2005. (OLSE Exhibits 6 & 42-A; OLSE Post-Hearing Brief, Exhibit C) This
5 amount was calculated by taking into account the number of hours worked per pay period,
6 including all overtime and double time hours. According to the restaurant's payroll records, Ms. Li
7 was paid in the sum of \$9,243.02 for that period. (OLSE Exhibit 21). Accordingly, the OLSE
8 calculates that the restaurant owes Ms. Li unpaid wages in the amount of \$1,887.74 for work
9 performed during the period February 23, 2004 through March 15, 2005 (\$11,130.76 owed -
10 \$9,243.02 paid = \$1,887.74).

11 98. In addition to calculating the minimum wages owed for work performed for the
12 period February 23, 2004 through March 15, 2005, the OLSE also determined that the restaurant
13 owes Ms. Li gross wages in the amount of \$3,391.97 for bad paychecks and missing paychecks
14 for the period September 1, 2005 through November 30, 2005. (OLSE Post-Hearing Brief, Exhibit
15 B) The claimant credibly testified that she was unable to cash the only two paychecks she
16 received for work performed after September 1, 2005, and she received no paychecks for 4 full
17 pay periods. The OLSE submitted copies of the 2 paychecks that bounced (combined gross
18 earnings of \$1,180.94). (OLSE Exhibit 342-A) Based on time records maintained by the claimant,
19 the OLSE calculated that, in addition to the gross amount of the bounced paychecks, the
20 restaurant owes the claimant an additional gross amount of \$2,211.03 for 256.5 hours worked
21 (256.5 hrs. X \$8.62/hr. = \$2,211.02). Accordingly, the department calculates that Ms. Li is owed
22 \$3,391.97 for unpaid wages for the period September 1, 2005 through November 30, 2005
23 (\$1,180.94 bounced checks + \$2,211.03 missing paychecks = \$3,391.97). In sum, the OLSE
24 calculates that the restaurant owes the claimant unpaid wages for work performed in the amount
25 of \$5,279.71 (\$1,887.74 for the period 2/23/04 through 3/15/05 + \$3,391.97 for the period 9/1/05
26 to 11/30/05 = \$5,279.71).

27 99. The OLSE calculates maximum penalties owing to Ms. Li in the amount of
28 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation

1 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
2 through the first day of hearing on April 21, 2006 ($\$50.00 \times 789$ days for the period 2/23/04
3 through 4/21/06 = $\$39,450.00$). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
4 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

5 Zhi Rong Huang (Claimant #21)

6 100. Zhi Rong Huang testified at the April 26, 2006 hearing that he worked as a kitchen
7 helper at the Golden Dragon from August 2000 through October 3, 2005. Mr. Huang testified that
8 he quit because was not getting paid. He further testified that he worked 6 days per week for an
9 average of 10 hours per day. Mr. Huang credibly testified that he earned take-home pay in the
10 amount of $\$1,400.00$ per pay period, and that he was paid with two separate paychecks. He
11 received payroll checks for approximately $\$1,125.00$, which equaled his gross earnings of
12 $\$1,400.00$ minus taxes. He also received a supplemental check for the amount of taxes that were
13 deducted from his gross earnings, so that both checks added together were in the amount of
14 $\$1,400.00$.

15 101. The OLSE submitted copies of 7 bad paychecks for Mr. Huang in the following
16 amounts: (1) payroll Check No. 46908 in the amount of $\$1,123.88$, dated December 20, 2004; (2)
17 payroll Check No. 46942 in the amount of $\$1,126.93$, dated January 5, 2005; (3) non-payroll
18 Check No. 1164 in the amount of $\$273.07$, dated January 7, 2005; (4) payroll Check No. 70 in the
19 amount of $\$1,128.72$, dated 8/23/05; (5) payroll Check No. 92 in the amount of $\$1,128.72$, dated
20 September 10, 2005; (6) payroll Check No. 113 in the amount of $\$1,128.72$, dated September 22,
21 2005; and (7) payroll Check No. 134 in the amount of $\$1,128.72$, dated October 10, 2005. (OLSE
22 Exhibit 38) Although the OLSE calculates gross wages owed in the amount of $\$8,682.62$ for
23 bounced checks, the correct amount is $\$8,673.07$ based on the claimant's testimony and the
24 documentary evidence ($\$1,400.00$ gross earnings \times 6 payroll checks = $\$8,400.00$, plus the
25 bounced supplemental check in the amount of $\$273.07$ = $\$8,673.07$). In addition to the 7 bounced
26 checks that were submitted, the OLSE claims that Mr. Huang is owed an additional amount of
27 $\$272.00$ for one missing supplemental check. However, the additional amount was added to the
28 claim after the conclusion of the hearings and there was no testimony or other evidence offered in

1 support of the additional amount.

2 102. The OLSE calculates penalties owing to Mr. Huang in the amount of \$14,750.00,
3 which is a penalty of \$50.00 per day for each day for the period July 1, 2005 through April 21,
4 2006. However, based on the calculation method used for each of the other claimant's (i.e.
5 multiplying \$50.00 per day for each day that the violation continued including the first day the
6 violation occurred), the penalty provision under Section 12R.7(b) of the MWO would be triggered
7 no later than December 20, 2004, the date of the first bad paycheck. Beginning on December 20,
8 2004, the maximum penalties under the MWO would be in the sum of \$24,400.00 ($\50.00×488
9 days for the period 12/20/04 through 4/21/06 = \$24,400.00). As with the other claimants, the
10 OLSE seeks the same amount of penalties on behalf of the City pursuant to Section 12R.7(b).

11 Chik Ling Leung (Claimant #22)

12 103. At the April 26, 2006 hearing, claimant Chik Ling Leung testified that she worked at
13 the Golden Dragon Restaurant as a waitress for the period July 31, 2005 through January 17,
14 2006. Ms. Leung testified that she generally worked between 6 or 7 hours per shift on an
15 average of 6 days per week.

16 104. The claimant credibly testified that she was unable to cash any of the 4 paychecks
17 she received after September 1, 2005, and copies of the bounced paychecks were admitted into
18 evidence. (OLSE Exhibit 39-A) Ms. Leung further credibly testified that she received no other
19 paychecks after September 1, 2005. The OLSE calculated that Ms. Leung earned minimum
20 wages in the sum of \$6,629.74 during the period September 1, 2005 through January 17, 2006
21 for which she received either no paychecks or bad paychecks. To calculate the minimum wages
22 owing, the OLSE first determined that the claimant worked an average of 39 hours per week
23 during the relevant period ($6.5 \text{ hrs/day} \times 6 \text{ days/wk} = 39 \text{ hrs}$). Based on that weekly average, it
24 was determined that Ms. Leung worked 676 hours during the period September 1, 2005 through
25 December 31, 2005, and she was therefore owed a minimum wage of \$5,827.12 for work
26 performed during that period ($676 \text{ hrs} \times \$8.62/\text{hr minimum wage} = \$5,827.12$). It was further
27 determined that she worked 91 hours during the period January 1, 2006 through January 17,
28 2006, and she was therefore owed minimum wages in the amount of \$802.62 for work performed

1 during that period (91 hrs X \$8.82/hr minimum wage = \$802.62). The combined minimum wages
2 owed is therefore calculated to be in the sum of \$6,629.74 (\$5,827.12 for 9/1/05 to 12/21/05 +
3 \$802.62 for 1/1/06 to 1/17/06 = \$6,629.74). Ms. Yu testified that she became depressed during
4 her last few months of employment at the restaurant because she was not being compensated for
5 her labor.

6 105. The OLSE calculates maximum penalties owing to Ms. Leung in the amount of
7 \$11,650.00, which is calculated by multiplying \$50.00 per day for each day that the violation
8 continued, beginning on September 1, 2005, and continuing through the first day of hearing on
9 April 21, 2006 (\$50.00 X 233 days for the period 9/1/05 through 4/21/06 = \$11,650.00). (OLSE
10 Post-Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of
11 the City pursuant to Section 12R.7(b).

12 Bao Ling Chen (Claimant #23)

13 106. At the April 24, 2006 hearing, claimant Bao Ling Chen testified that he worked at
14 the Golden Dragon Restaurant from March 2002 until the restaurant closed on January 17, 2006.
15 Mr. Chen testified that he generally worked 6 days per week. The OLSE received comprehensive
16 payroll documentation from Golden Dragon for Mr. Chen for the period February 23, 2004
17 through March 15, 2005. (OLSE Exhibits 21, 22, & 23-A) Based on the employee's timesheets,
18 the OLSE determined that Mr. Chen was owed minimum wages in the amount of \$12,949.84 for
19 the period February 23, 2004 through March 15, 2005. (OLSE Exhibit 6 & 23-A) This amount was
20 calculated by taking into account the number of hours worked per pay period, including all
21 overtime and double time hours. According to the restaurant's payroll records, Mr. Chen was paid
22 in the sum of \$11,139.86 for work performed during that period. (OLSE Exhibit 21). The OLSE
23 therefore calculates that the restaurant owes Mr. Chen unpaid minimum wages in the amount of
24 \$1,809.98 for work performed during the period February 23, 2004 through March 15, 2005
25 (\$12,949.84 owed - \$11,139.86 paid = \$1,809.98).

26 107. In addition to calculating the minimum wages owed for work performed for the
27 period February 23, 2004 through March 15, 2005, the OLSE also determined that the restaurant
28 owes Mr. Chen wages in the amount of \$3,594.54 for bad paychecks and missing paychecks for

1 work performed during the period September 1, 2005 through January 17, 2006. The claimant
2 credibly testified that the only 3 paychecks he received after September 1, 2005 bounced and he
3 further testified that he received no other payment during that period. Copies of the bounced
4 paychecks were admitted into evidence. (OLSE Exhibit 23-A) The claimant testified that he was
5 on vacation the month of November 2005 and the first two weeks of December 2005. The OLSE
6 calculated that the gross pay for each pay period during the bad paycheck/no check period was in
7 the amount of \$599.09, and there were a total of 6 pay periods for which the claimant was not
8 paid ($\$599.09 \times 6 = \$3,594.54$). The OLSE reserved the right to establish that additional wages
9 may be owed during the period which bad paychecks or no paychecks issued. In sum, the OLSE
10 claims there are wages owing to Mr. Chen in the amount of \$5,404.52 (\$1,809.98 for the period
11 2/23/04 through 3/15/05 + \$3,594.54 for the period 9/1/05 to 1/16/06 = \$5,404.52). The OLSE
12 reserved the right to establish that additional wages may be owed if payroll records show that the
13 claimant was not paid minimum wage during the period or if records show that the claimant
14 worked overtime during the period.

15 108. The OLSE calculates maximum penalties owing to Mr. Chen in the amount of
16 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
17 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
18 through the first day of hearing on April 21, 2006 ($\$50.00 \times 789$ days for the period 2/23/04
19 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
20 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

21 Kai Sam Chu (Claimant #24)

22 109. At the April 26, 2006 hearing claimant Kai Sam Chu testified that he worked as a
23 fry cook at the Golden Dragon from approximately December 1, 2005 through January 17, 2006.
24 Mr. Chu credibly testified that for each 10-hour day he was paid a net sum of \$100.00. He further
25 credibly testified that he was not paid for his last 14 days of work, beginning on January 1, 2006.
26 The OLSE calculates that the restaurant owes Mr. Chu gross wages in the amount of \$1,673.00,
27 which is the estimated sum of gross earnings for 14 days based net earnings of \$100.00 per day.

28 110. The OLSE calculates maximum penalties owing to Mr. Chu in the amount of

1 \$5,550.00, which is calculated by multiplying \$50.00 per day for each day that the violation
2 continued, beginning on January 1, 2006, and continuing through the first day of hearing on April
3 21, 2006 ($\$50.00 \times 111$ days for the period 1/1/06 through 4/21/06 = \$5,550.00). (OLSE Post-
4 Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of the City
5 pursuant to Section 12R.7(b).

6 Han Ling Jiang (Claimant #25)

7 111. At the April 24, 2006 hearing, claimant Han Ling Jiang testified that he began
8 working in the dim sum take-out department at the Golden Dragon Restaurant in February 1999,
9 and he continued to work at the restaurant until he quit on December 15, 2005. Mr. Jiang credibly
10 testified that he quit because the restaurant stopped paying him at the end of September 2005.
11 Mr. Jiang testified that was unable to cash the paycheck which he received for the pay period
12 from October 1, 2005 through October 15, 2005. The OLSE submitted the check stub for Golden
13 Dragon Check No. 158, dated October 24, 2005, for pay period October 1, 2005 through October
14 15, 2005. (OLSE Exhibit 26) The pay stub shows Mr. Jiang's gross earnings to be in the amount
15 of \$1,133.53 and net earnings to be in the amount of \$953.57, which the claimant credibly
16 testified was the amount of each of his bi-monthly paychecks. Claimant Jiang testified that after
17 he was unable to cash the October 24, 2005 check, restaurant owner Big Hong Ng asked him to
18 return it to her, and she promised to pay him cash instead. He further testified that he never
19 received the promised cash payment after returning the check to the owner.

20 112. The claimant testified that although he continued to work at the restaurant through
21 December 15, 2005, the restaurant failed to pay him for any of the work he performed after
22 September 2005. In addition to the October 24, 2005 check that he was unable to cash, the
23 claimant testified that he received one additional bad paycheck on December 10, 2005, also in
24 the amount of \$953.57, a copy of which was admitted into evidence. (OLSE Exhibit 26) Mr. Jiang
25 quit 5 days after receiving the December 10, 2005 check.

26 113. The OLSE calculates that Mr. Jiang earned gross wages in the sum of \$5,667.65
27 during the period October 1, 2005 through December 15, 2005 for which he received either no
28 paychecks or bad paychecks (5 pay periods \times \$1,133.53 gross per pay period = \$5,667.65).

1 (OLSE Post-Hearing Brief, Exhibit B) The OLSE reserved the right to establish that additional
2 wages may be owed during the period which had paychecks or no paychecks issued, if payroll
3 records show that the claimant was not paid minimum wage during the period or if records show
4 that the claimant worked overtime during the period. Mr. Jiang testified that it was stressful to not
5 receive payment for his work because he did not have adequate resources for bare necessities
6 such as food and rent.

7 114. The OLSE calculates maximum penalties owing to Mr. Jiang in the amount of
8 \$10,150.00, which is calculated by multiplying \$50.00 per day for each day that the violation
9 continued, beginning on October 1, 2005 and continuing until the first day of hearing on April 21,
10 2006 ($\$50.00 \times 203 \text{ days} = \$10,150.00$). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also
11 seeks payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

12 Hong Can Huang (Claimant #26)

13 115. Hong Can Huang testified at the April 24, 2006 hearing that he worked as a
14 kitchen helper at the Golden Dragon from December 1999 until the restaurant closed for business
15 on January 17, 2006. He further testified that he worked 6 days a week for an average of 10
16 hours per day. Mr. Huang credibly testified that he earned take-home pay in the amount of
17 \$1,300.00 per pay period, and that he was paid with two separate paychecks. He received an
18 average payroll check for slightly less than \$1,100.00, which equaled his gross earnings of
19 \$1,300.00 minus taxes. He also received a second supplemental check for the amount of taxes
20 deducted from his gross earnings, and both checks added together were in the amount of
21 \$1,300.00.

22 116. The OLSE determined that the restaurant owes Mr. Huang wages in the amount of
23 \$2,943.40 for bad paychecks and missing paychecks for the period December 15, 2005 through
24 January 17, 2006. (OLSE Post-Hearing Brief, Exhibit B) The claimant credibly testified that the
25 paycheck he received on January 6, 2006 for the pay period December 15, 2005 through
26 December 31, 2005 bounced when he tried to cash it. However, he was able to cash the second
27 check he received on or around the same day in the amount of \$216.40, which amount was to
28 cover the tax withholdings from his earnings. A copy of check no. 247, dated January 6, 2006 and

1 payable to Huang in the amount of \$1,083.60 (for gross earnings of \$1,300.00) was admitted into
2 evidence. (OLSE Exhibit 31) Mr. Huang testified that he did not receive any payment for work
3 performed after December 31, 2005. The OLSE calculated gross pay owing to the claimant in the
4 amount of \$2,943.40 for the period December 15, 2005 through January 17, 2006 (\$1,300.00
5 gross earnings for 12/15/05 to 12/31/05 + \$1,300.00 for 1/1/06 to 1/15/06 + \$217.00 for tax
6 withholdings for the period 1/1/06 to 1/15/06 + \$126.40 for his final day of work = \$2,943.40). Mr.
7 Huang testified that he has two children, and it was stressful during his last month of employment
8 at the restaurant because he had to be extremely frugal to make ends meet.

9 117. The OLSE calculates maximum penalties owing to Mr. Huang in the amount of
10 \$6,400.00, which is calculated by multiplying \$50.00 per day for each day that the violation
11 continued, beginning on December 15, 2005, and continuing through the first day of hearing on
12 April 21, 2006 ($\$50.00 \times 128$ days for the period 12/15/05 through 4/21/06 = \$6,400.00). (OLSE
13 Post-Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of
14 the City pursuant to Section 12R.7(b).

15 Ming Hen Wong (Claimant #27)

16 118. Claimant Ming Hen Wong testified at the April 26, 2006 hearing that she worked at
17 the Golden Dragon Restaurant until it closed on January 17, 2006. Based on Golden Dragon
18 payroll records, the claimant worked at the restaurant when the MWO went into effect on
19 February 23, 2004. The OLSE received comprehensive payroll documentation from Golden
20 Dragon for Ms. Wong for the period February 23, 2004 through March 15, 2005. (OLSE Exhibits
21 21, 22, & 47-A) Based on the claimant's timesheets, the OLSE determined that Ms. Wong was
22 owed minimum wages in the amount of \$15,292.90 for the period February 23, 2004 through
23 March 15, 2005. (OLSE Exhibits 6 & 47-A; OLSE Post-Hearing Brief, Exhibit C) This amount was
24 calculated by taking into account the number of hours worked per pay period, including all
25 overtime and double time hours. According to the restaurant's payroll records, Ms. Wong was
26 paid in the sum of \$13,295.31 for work performed during that period. (OLSE Exhibit 21).
27 Accordingly, the OLSE calculates that the restaurant owes Ms. Wong unpaid wages in the
28 amount of \$1,997.59 for work performed during the period February 23, 2004 through March 15,

1 2005 (\$15,292.90 owed - \$13,295.31 paid = \$1,997.59).

2 119. In addition to calculating the minimum wages owed for work performed for the
3 period February 23, 2004 through March 15, 2005, the OLSE also determined that the restaurant
4 owes Ms. Wong wages in the amount of \$6,488.82 for bad paychecks and missing paychecks for
5 work performed between July 16, 2005 and January 17, 2006. (OLSE Post-Hearing Brief, Exhibit
6 B) The claimant credibly testified that she was unable to cash 5 paychecks she received from the
7 restaurant, and the OLSE submitted copies of the bad paychecks which, based on the
8 corresponding pay stubs, amount to gross wages in the amount of \$3,034.24. (OLSE Exhibit 47-
9 A) She further credibly testified that she received no paychecks for 323 hours worked between
10 September 2005 and December 2005, and she received no paychecks for 76 hours of work
11 performed between January 1, 2006 and January 17, 2006. The claimant verified the time
12 records which the OLSE submitted on her behalf, and which corroborate her testimony. (OLSE
13 Exhibit 47-A) Based on those records the OLSE calculates unpaid wages in the amount of
14 \$2,784.26 for the period September 1, 2005 through December 31, 2005 (323 hrs. X \$8.62/hr.
15 minimum wage = \$2,784.26), and unpaid wages in the amount of \$670.32 for work performed
16 from January 1, 2006 through January 17, 2006 (76 hrs. X \$8.82/hr. minimum wage = \$670.32).
17 Accordingly, the combined amount for the period in which bad paychecks and/or no checks
18 issued is \$6,488.82 (\$3,034.24 bad paychecks + \$2,784.26 for work performed from 9/1/05
19 through 12/31/05 + \$670.32 for work performed from 1/1/06 through 1/17/06). The OLSE
20 reserved the right to establish that additional wages may be owed during the period which bad
21 paychecks or no paychecks issued, if payroll records show that the claimant was not paid
22 minimum wage during the period or if records show that the claimant worked overtime during the
23 period. In sum, the OLSE calculates that the restaurant owes the claimant unpaid wages for work
24 performed in the amount of \$8,486.41 (\$1,997.59 for the period 3/1/04 through 3/15/05 +
25 \$6,488.82 for the period 7/16/05 to 1/17/06 = \$8,486.41).

26 120. The OLSE calculates maximum penalties owing to Ms. Wong in the amount of
27 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
28 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing

1 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
2 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
3 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

4 Zhi Bin Huang (Claimant #28)

5 121. Claimant Zhi Bin Huang did not appear at any of the hearings to testify. The OLSE
6 provided a written description of the calculation of the claimant's unpaid wages. (OLSE Exhibit
7 50) The OLSE received comprehensive payroll documentation from Golden Dragon for Mr.
8 Huang for the period February 23, 2004 through March 15, 2005. (OLSE Exhibits 21, 22) Based
9 on timesheet records, the OLSE determined that Mr. Huang was owed minimum wages in the
10 amount of \$17,804.80 for the period February 23, 2004 through March 15, 2005. (OLSE Exhibits
11 6 & 50; OLSE Post-Hearing Brief, Exhibit C) This amount was calculated by taking into account
12 the number of hours worked per pay period, including all overtime and double time hours.
13 According to the restaurant's payroll records, Mr. Huang was paid in the sum of \$14,083.91 for
14 work performed during that period. (OLSE Exhibit 21). Accordingly, the OLSE calculates that the
15 restaurant owes Mr. Huang unpaid minimum wages in the amount of \$3,720.89 for work
16 performed during the period February 23, 2004 through March 15, 2005 (\$17,804.80 owed -
17 \$14,083.91 paid = \$3,720.89).

18 122. In addition to calculating the minimum wages owed for work performed for the
19 period February 23, 2004 through March 15, 2005, the OLSE also determined that the restaurant
20 owes Mr. Huang wages in the amount of \$7,427.50 for bad paychecks and missing paychecks for
21 work performed between July 1, 2005 and December 7, 2005. (OLSE Post-Hearing Brief, Exhibit
22 B) The OLSE submitted copies of 6 bad paychecks for the period July 1, 2005 through
23 September 30, 2005. (OLSE Exhibit 50) Based on the pay stubs for the bad paychecks, the total
24 gross earnings for the period July 1, 2005 through September 30, 2005 was \$4,353.10, and the
25 average gross pay per pay period was in the amount of \$725.50. Based on documentation
26 provided by the claimant, the OLSE also calculated that the claimant was owed wages for 4 pay
27 periods from October 1, 2005 through November 30, 2005, and he was also owed wages for 20
28 hours worked during the first week of December 2005. For the period October 1, 2005 through

1 December 7, 2005, the OLSE calculated unpaid wages in the amount of \$2,902.00 (\$725.50
2 average gross earnings X 4 pay periods = \$2,902.00). For the period December 1, 2005 through
3 November 30, 2005, the OLSE calculated earnings of \$172.40 (20 hrs. X \$8.62 minimum wage =
4 \$172.40). Accordingly, the combined amount for the period in which bad paychecks and/or no
5 checks issued is \$7,427.50 (\$4,353.10 bad paychecks + \$2,902.00 for work performed from
6 10/1/05 through 11/30/05 + \$172.40 for work performed from 12/1/05 through 12/7/05). In sum,
7 the OLSE calculates that the restaurant owes the claimant unpaid wages for work performed in
8 the amount of \$11,148.39 (\$3,720.89 for the period 3/1/04 through 3/15/05 + \$7,427.50 for the
9 period 7/1/05 to 1/17/06 = \$11,148.39).

10 123. The OLSE calculates maximum penalties owing to Mr. Huang in the amount of
11 \$39,450.00, which is calculated by multiplying \$50.00 per day for each day that the violation
12 continued, beginning on February 23, 2004 when the MWO went into effect, and continuing
13 through the first day of hearing on April 21, 2006 (\$50.00 X 789 days for the period 2/23/04
14 through 4/21/06 = \$39,450.00). (OLSE Post-Hearing Brief, Exhibit D) The OLSE also seeks
15 payment in the same amount on behalf of the City pursuant to Section 12R.7(b).

16 Lai Chun Lian (Claimant #29)

17 124. Lai Chun Lian testified at the April 26, 2006 hearing that he worked as a janitor at
18 the Golden Dragon Restaurant from September 2000 through November 2005, and that he quit
19 because he was not being paid. Mr. Lian credibly testified that he received no wages for work
20 performed after January 31, 2005, even though he and his wife each worked 7 days per week
21 from 11:00 PM to 3:00 AM cleaning the restaurant. He further credibly testified that before the
22 restaurant stopped paying him, he received a single paycheck each pay period that was in his
23 name only for the amount of \$1,250.00 for the cleaning services that he and his wife performed.
24 His total monthly earnings were in the amount of \$2,500.00.

25 125. The OLSE calculates that Golden Dragon owes the claimant \$25,000.00 for work
26 performed for the period February 1, 2005 through November 30, 2005 (\$2,500.00 per month X
27 10 months = \$25,000.00). Mr. Lian testified that he suffered tremendous stress as a result of not
28 being paid for his work.

1 126. The OLSE calculates maximum penalties owing to Mr. Lian in the amount of
2 \$22,250.00, which is calculated by multiplying \$50.00 per day for each day that the violation
3 continued, beginning on February 1, 2005, and continuing through the first day of hearing on April
4 21, 2006 ($\$50.00 \times 445$ days for the period 2/1/05 through 4/21/06 = \$22,250.00). (OLSE Post-
5 Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of the City
6 pursuant to Section 12R.7(b).

7 Xin Sheng Kuang (Claimant #30)

8 127. Claimant Xin Sheng Kuang testified at the April 26, 2006 hearing that he worked
9 at the Golden Dragon Restaurant in the dim sum department from June 11, 2005 through
10 December 18, 2005, at which time he quit because he was not being paid. Mr. Kuang testified
11 that he worked 6 days per week from 7:00 AM to 5:00 PM. The OLSE calculates that the
12 restaurant owes Mr. Kuang wages in the amount of \$6,361.56 for bad paychecks and missing
13 paychecks for the period September 16, 2005 through December 18, 2005. (OLSE Post-Hearing
14 Brief, Exhibit B) The claimant credibly testified that he was unable to cash any of the 3 paychecks
15 he received after September 15, 2005, and he received no paychecks for 3 full pay periods plus
16 his last 3 days of work. The OLSE submitted copies of 2 of the paychecks that bounced, dated
17 October 24, 2005 and December 10, 2005. (OLSE Exhibit 41) Mr. Kuang credibly testified that he
18 returned the paycheck dated October 10, 2005 to Big Hong Ng in exchange for promised cash,
19 which he never received. The OLSE submitted a copy of the check stub for the October 10, 2005
20 paycheck. (OLSE Exhibit 41) The check stub states that the check was for a gross amount of
21 \$1,070.41 for the pay period September 16, 2005 through September 30, 2005. Mr. Kuang
22 credibly testified that his gross earnings were the same amount each pay period. The OLSE
23 calculated the wages owed for the period September 16, 2005 through December 18, 2005 by
24 multiplying the gross amount of \$1,017.16 by 6 pay periods and adding to that amount \$258.60
25 for work performed on December 16-18, 2005 ($\$1,017.16 \times 6$ pay periods = \$6,102.96 + \$258.60
26 = \$6,361.56). Mr. Leung testified that his wife had to find employment after the restaurant
27 stopped paying him.

28 128. The OLSE calculates maximum penalties owing to Mr. Huang in the amount of

1 \$10,900.00, which is calculated by multiplying \$50.00 per day for each day that the violation
 2 continued, beginning on September 16, 2005, and continuing through the first day of hearing on
 3 April 21, 2006 (\$50.00 x 218 days for the period 9/16/05 through 4/21/06 = \$10,900.00). (OLSE
 4 Post-Hearing Brief, Exhibit D) The OLSE also seeks payment in the same amount on behalf of
 5 the City pursuant to Section 12R.7(b).

6 **OLSE's Calculation Of Wages And Penalties Owed To Non-Claimant Employees**

7 129. Robin Ho of the OLSE testified that in the process of auditing Golden Dragon
 8 payroll records for the period February 23, 2004 through March 15, 2005, the department
 9 identified a number of non-claimant employees who had not been paid the required minimum
 10 wage for work performed during the audit period. None of the non-claimants testified at any of the
 11 hearings. The OLSE submitted timesheets and payroll records for each of the non-claimant
 12 employees, as well as calculation summary sheets. (OLSE Exhibits 20 & 21, OLSE Proposed
 13 Findings of Fact, Exhibit B) The amount of wages earned by each employee was calculated using
 14 employee timesheets and by taking into account the number of hours worked per pay period,
 15 including all overtime and double time hours. Restaurant payroll records were used to calculate
 16 the wages actually paid. The table below sets forth the following: (1) the name of each non-
 17 claimant employee, (2) the period each employee worked within the audit period of February 23,
 18 2004 through March 15, 2005, (3) the sum of minimum wages owed to each employee during the
 19 audit period based on timesheet records, (4) the sum of wages actually paid during the audit
 20 period based on OLSE's audit of restaurant payroll records, (5) the sum of underpayments as
 21 calculated by the OLSE, and (6) the OLSE's calculation of the maximum allowable penalties (the
 22 OLSE calculated the penalties by multiplying \$50.00 per day for each day the violation continued
 23 through the first day of hearing on April 21, 2006):

| Name of Employee | Period Worked During Audit Period | Wages Earned | | Wages Paid | = | Amount Owing | Maximum Penalties Sought by OLSE |
|------------------|-----------------------------------|--------------|---|------------|---|--------------|-------------------------------------|
| Bi Wen Huang | 2/23/04 to 7/31/04 | \$1,389.75 | - | \$1,340.00 | = | \$49.75 | \$39,450.00 (\$50.00 x 789 days) |

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| Name of Employee | Period Worked During Audit Period | Wages Earned | | Wages Paid | | Amount Owing | Maximum Penalties Sought by OLSE | |
|-----------------------|-----------------------------------|--------------|---|-------------|---|--------------|-------------------------------------|----------------------|
| Yong Yu Lei | 3/1/04 to 5/15/04 | \$1,857.25 | - | \$1,708.50 | = | \$148.75 | \$39,100.00 (\$50.00 x 782 days) | |
| Yan Qiong Li | 2/23/04 to 3/15/05 | \$17,662.04 | - | \$14,806.40 | = | \$2,855.64 | \$39,450.00 (\$50.00 x 789 days) | |
| Yi Yin Lin | 10/16/04 to 10/31/04 | \$51.00 | - | \$0.00 | = | \$51.00 | \$27,650.00 (\$50.00 x 553 days) | |
| Chun Hua Lin | 4/16/04 to 10/15/04 | \$4,016.25 | - | \$3,740.00 | = | \$276.25 | \$36,800.00 (\$50.00 x 736 days) | |
| Xiao Ling Liao | 4/16/04 to 6/30/04 | \$1,292.00 | - | \$1,207.00 | = | \$85.00 | \$36,800.00 (\$50.00 x 736 days) | |
| Jia Long Liu | 7/16/04 to 1/15/05 | \$7,344.38 | - | \$6,200.75 | = | \$1,143.63 | \$32,250.00 (\$50.00 x 645 days) | |
| Yu Lin Ma | 2/23/04 to 6/15/04 | \$5,612.13 | - | \$4,772.75 | = | \$839.38 | \$39,450.00 (\$50.00 x 789 days) | |
| Zhi Zhen Pan | 3/1/04 to 3/15/05 | \$17,356.28 | - | \$14,638.77 | = | \$2,717.51 | \$39,100.00 (\$50.00 x 782 days) | |
| Thu Anh Phan | 6/26/04 to 7/15/04 | \$541.88 | - | \$514.25 | = | \$27.63 | \$33,250.00 (\$50.00 x 665 days) | |
| Zhen Peng Wu | 2/23/04 to 9/15/04 | \$7,208.00 | - | \$6,281.50 | = | \$926.50 | \$39,450.00 (\$50.00 x 789 days) | |
| Shu Yu Wu | 10/16/04 to 1/15/05 | \$845.75 | - | \$0.00 | = | \$845.75 | \$27,650.00 (\$50.00 x 789 days) | |
| Zhan Hong Song | 2/23/04 to 10/31/04 | \$10,255.25 | - | \$8,308.75 | = | \$1,946.50 | \$39,450.00 (\$50.00 x 789 days) | |
| Lian Cui Guan | 3/1/04 to 3/15/05 | \$13,079.86 | - | \$11,269.43 | = | \$1,810.43 | \$39,100.00 (\$50.00 x 782 days) | |
| Chun Yan Zhao | 6/1/04 to 3/15/05 | \$9,399.45 | - | \$8,116.96 | = | \$1,282.49 | \$34,500.00 (\$50.00 x 690 days) | |
| Fang Yan Lu | 2/23/04 to 5/31/04 | \$3,471.83 | - | \$2,958.00 | = | \$513.83 | \$39,450.00 (\$50.00 x 789 days) | |
| TOTAL AMOUNT → | | | | | | | \$15,520.04 | \$582,900.00* |

* The OLSE seeks combined penalties in this total amount on behalf of the non-claimant employees, and it seeks an assessment of penalties in the same amount on behalf of the City.

The OLSE Presented Its Case Without Opposition

130. The OLSE presented its case without opposition from the Golden Dragon Restaurant. The restaurant did not introduce any exhibits, call any witnesses, or submit any oral or written opposition to the OLSE's case.

HEARING OFFICER'S FINDINGS

1
2 1. The OLSE's request to expand the scope of findings beyond those enumerated in
3 the December 12, 2005 letter from OLSE Manager Donna Levitt to the San Francisco Controller's
4 Office requesting the appointment of an impartial hearing officer is granted. Although the
5 December 12, 2005 letter does not reference the claims pertaining to the issuance of bad
6 paychecks and no paychecks in 2005 and 2006, the Golden Dragon Restaurant received notice
7 of the OLSE's intent to present evidence on those claims in advance of the hearings, and the
8 restaurant was afforded full opportunity to respond to the claims. The hearing officer's
9 determination regarding the scope of findings is supported by the following: (1) the OLSE
10 specifically requested findings on the claims pertaining to the issuance of bad paychecks/no
11 paychecks in 2005 and 2006 in its March 5, 2006 Pre-Hearing Statement which was filed in
12 response to the undersigned hearing officer's request for a "detailed statement of issues
13 presented to the Hearing Officer for Findings;" (2) Golden Dragon was served with OLSE's
14 March 5, 2006 Pre-Hearing Statement, and it had notice of the potential scope of issues to be
15 determined; (3) the undersigned hearing officer twice requested Golden Dragon to respond to
16 OLSE's Pre-Hearing Statement and the issues presented to the hearing officer for decision, and
17 the restaurant failed to do so; (4) Golden Dragon failed to establish any prejudice or due process
18 violation regarding the OLSE's proposed scope of the issues; and (5) each of the claims was fully
19 addressed at the hearings, during which time the restaurant had full opportunity to respond.

20 2. At the time of the hearings, the OLSE had not conducted an audit of the
21 restaurant's payment practices for the period March 16, 2005 though January 17, 2006. The
22 undersigned hearing officer finds that the OLSE has reserved the right to request further hearings
23 regarding possible violations of the MWO during that period. If the OLSE is unable to conduct a
24 full audit for the period March 16, 2005 through January 17, 2006 due to the restaurant's failure to
25 produce requested documents, it shall be presumed under Administrative Code Section 12.R.5(c)
26 that the employer paid no more than the applicable federal or state minimum wage, absent clear
27 and convincing evidence otherwise. It is therefore not necessary to make any determination
28 herein as to whether the Golden Dragon Restaurant failed to give the OLSE reasonable access to

1 its payroll records for the period March 16, 2005 through January 17, 2006.

2 3. The undersigned hearing officer shall make written findings on the following
3 issues:

4 (1) Did the OLSE establish that the Golden Dragon Restaurant failed to pay the minimum
5 wage under the MWO to any of its employees during the audit period February 23,
6 2004 through March 15, 2005, and if so, what are the names of the employees and
7 how much is owed to them?

8 (2) Did the OLSE establish that the Golden Dragon Restaurant failed to pay wages to any
9 of the 21 claimants who filed claims on February 22, 2006 alleging receipt of bad
10 paychecks and/or no paychecks from the restaurant in 2005 and 2006, and if so, what
11 are the names of the employees and how much is owed to them?

12 (3) Are administrative penalties and/or payments to the City appropriate under the facts of
13 this case, and if so, what is the appropriate amount of administrative penalties that
14 should be paid to the employees and/or what is the appropriate amount of payments
15 to be made to the City?

16 **Issue #1: Did the OLSE establish that the Golden Dragon Restaurant failed to pay the**
17 **minimum wage under the MWO to any of its employees during the audit period February**
18 **23, 2004 through March 15, 2005, and if so, what are the names of the underpaid**
19 **employees and how much is owed to them?**

20 4. Golden Dragon Restaurant was covered by the San Francisco Minimum Wage
21 Ordinance, which since its effective date of February 23, 2004, has required employers in San
22 Francisco to pay the local minimum wage. [Administrative Code Section 12R.4] Based on the
23 evidence and pursuant to the MWO, the undersigned hearing officer finds that the OLSE
24 established that the Golden Dragon Restaurant failed to pay combined minimum wages of at
25 least \$64,645.12 to 35 employees who worked at the restaurant during the audit period of
26 February 23, 2004 through March 15, 2005. The 35 employees include 19 of the claimants who
27 sought assistance from the OLSE, and 16 non-claimant employees who were identified by the
28 OLSE during the audit process. No determination is made regarding the claim of Yu Mei Hou
(Claimant #9) because she requested to withdraw her claim from the OLSE.

1 5. Table 2 ("Wages Owed for Work Performed During Audit Period 2/23/04 to
2 3/15/05"), attached and incorporated, sets forth the name of each employee who was paid less
3 than minimum wage during the audit period February 23, 2004 through March 15, 2005, the
4 period of time at issue during the audit period, the minimum wages earned during the period at
5 issue by each employee, the amount of wages paid to each employee during the period at issue,
6 and the amount of unpaid wages owed to each affected employee. The findings in Table 2 are
7 supported by: (1) the timesheets and payroll records which the OLSE obtained from the
8 restaurant, and which were admitted into evidence; (2) records of time worked during the audit
9 period which some of the claimants maintained, and which were admitted into evidence; (3) the
10 testimony of the claimant-employees who appeared as witnesses; and (4) the testimony of OLSE
11 staff.

12 **Issue #2: Did the OLSE establish that the Golden Dragon Restaurant failed to pay wages to**
13 **any of the 21 claimants who filed claims on February 22, 2006 alleging receipt of bad**
14 **paychecks or no paychecks from the restaurant in 2005 and 2006, and if so, what are the**
15 **names of the employees, and how much is owed to them?**

16 6. Based on the evidence, the undersigned hearing officer finds that the OLSE
17 established that the Golden Dragon Restaurant failed to pay combined wages of at least
18 \$129,030.28 to the 21 claimants who alleged receipt of bad paychecks and/or no paychecks in
19 2005 and 2006. For each claimant, the OLSE established that the restaurant did not pay any
20 wages during various pay periods in 2005 and 2006, and the failure to pay any wages for work
21 performed is a clear violation of the Minimum Wage Ordinance. As noted in the Summary of
22 Evidence, there are various claimants for whom the OLSE miscalculated the amount of wages
23 owed for the issuance of bad paychecks and no paychecks based on the department's failure to
24 account for the fact that the minimum wage increased from \$6.62 to \$6.82 effective January 1,
25 2006. However, for each of the claimants, the OLSE reserved the right to establish that additional
26 wages may be owed during the period which bad paychecks or no paychecks issued, if payroll
27 records show that the claimant was not paid minimum wage during the period or if records show
28 that the claimant worked overtime during the period. Based on the evidence, the undersigned
hearing officer adopts the OLSE's final uncontested calculations of wages owed for the issuance

1 of bad paychecks and no paychecks in 2005 and 2006, with the exception of the calculations
2 pertaining to claimant Zhi Rong Huang (Claimant #21). The amount of wages owed to claimant
3 Huang is determined to be in the amount of \$8,673.07, instead of the claimed amount of
4 \$8,954.79. The amount of \$8,673.07 is the gross amount of the 7 bad paychecks admitted into
5 evidence and does not include the claimed missing paycheck in the amount of \$272.00, which
6 amount is not supported by the evidence as discussed in Summary of Evidence, Paragraph No.
7 101.

8 7. Table 3 ("Wages Owed for Receipt of Bad Paychecks and/or No Paychecks in
9 2005-2006"), attached and incorporated, sets forth the name of each employee who received bad
10 paychecks and/or no paychecks in 2005-2006; the dates of pay periods at issue beginning with
11 the first day that payment was not received and ending with the last day for which payment was
12 not received; and the amount of wages that the Golden Dragon owes to the employee for those
13 pay periods. The findings in Table 3 are supported by: (1) the copies of bad paychecks that were
14 admitted into the evidence; (2) timesheets and payroll records which the OLSE obtained from the
15 restaurant, and which were admitted into evidence; (3) time records maintained by some of the
16 employees which were admitted into evidence; and (4) the credible testimony of the claimants.

17 **Issue #3: Are administrative penalties and/or payments to the City appropriate under the**
18 **facts of this case, and if so, what is the appropriate amount of administrative penalties that**
19 **should be paid to the employees and/or what is the appropriate amount of payments to be**
20 **made to the City?**

21 8. After a hearing that affords a suspected violator of the MWO due process, and
22 upon determination that a violation has occurred, the OLSE may order an administrative penalty
23 in the amount of \$50.00 to each employee whose rights were violated for each day or portion
24 thereof that the violation occurred or continued. [Administrative Code Section 12R.7(b)] Prior to
25 the hearings in this case, the OLSE repeatedly informed Golden Dragon that it could face
26 substantial penalties if the case went to hearing, and the department made repeated efforts to
27 resolve the claims. Based on the facts of this case, the undersigned hearing officer finds that it is
28 appropriate for the OLSE to order the restaurant to pay the maximum amount of penalties
permitted under the MWO to each of the 29 claimant-employees whose claims and subsequent

1 involvement in the case prompted and advanced the OLSE's investigation (Claimant #9 withdrew
2 her claim, leaving 29 of 30 claimants). This determination is supported by the following factors:
3 (1) the broad magnitude of the violations in terms of the number of workers impacted; (2) the
4 ongoing nature of the violations; and (3) the hardship experienced by the claimants resulting from
5 the violations. The hearing officer finds that an assessment of administrative penalties is not
6 appropriate on behalf of the 16 non-claimant employees who the OLSE identified during the audit
7 period February 23, 2004 through March 15, 2005. None of the non-claimant employees sought
8 assistance from the department, none of them participated in the investigation, and none of them
9 testified at the hearings.

10 9. The OLSE interprets a violation of the MWO to *occur* on each day that an
11 employer pays any employee less than the local minimum wage. The OLSE interprets a violation
12 of the MWO to *continue* on each day an employer fails to pay any employee the minimum wages
13 that are owing. This interpretation is consistent with the language of the MWO, and the
14 undersigned hearing officer finds that the OLSE used the proper method of calculating the
15 maximum amount of penalties for each claimant by summing the number of days the violation
16 continued, beginning with the initial day that an employee was underpaid and continuing through
17 the first day of hearing on April 21, 2006. No determination is made herein regarding the accrual
18 of penalties after the first day of hearing on April 21, 2006. The undersigned hearing officer
19 further finds that, with the exception of claimants Rui Hua Wu (Claimant #13) and Zhi Rong
20 Huang (Claimant #21), the OLSE properly calculated the amount of maximum penalties owing to
21 each claimant through April 21, 2006. For claimant Wu, the hearing officer finds the maximum
22 penalties to be in the amount of \$14,750.00, instead of in the claimed amount of \$19,300.00. As
23 discussed in Summary of Evidence, Paragraph 78, the maximum penalty in the amount of
24 \$14,750.00 is calculated by multiplying \$50.00 per day by 295 days for the period July 1, 2005,
25 when the violation first occurred, through the first day of hearing on April 21, 2006. For claimant
26 Huang, the hearing officer finds the maximum penalties to be in the amount of \$24,400.00,
27 instead of in the claimed amount of \$14,750.00. As discussed in Summary of Evidence,
28 Paragraph 102, the maximum penalty in the amount of \$24,400.00 is calculated by multiplying

1 \$50.00 per day by 488 days for the period December 20, 2004, when the violation first occurred,
2 through the first day of hearing on April 21, 2006.

3 10. The combined sum of maximum penalties that may be assessed against the
4 restaurant for payment to the claimants is in the sum of \$871,300.00. Table 4 ("Maximum
5 Penalties Through April 21, 2006"), attached and incorporated, sets forth the name of each
6 claimant-employee, and for each claimant the table includes: the date that the violation first
7 occurred, the number of days the violation continued up to and including the first day of hearing
8 on April 21, 2006, and the maximum amount of penalties that may be assessed.

9 11. Table 5 ("Summary of Unpaid Wages and Maximum Penalties"), attached and
10 incorporated, sets forth the total amount of wages owed to each claimant and non-claimant
11 employee, and the maximum penalties for each claimant through April 21, 2006.


12 12. Under the MWO, the OLSE may order a violating employer or person to pay to the
13 City a sum of not more than \$50.00 for each day or portion thereof and for each employee or
14 person as to whom the violation occurred or continued. [Administrative Code Section 12R.7(b)] In
15 accordance with Section 12R.7(b), the hearing officer finds that an additional sum should be paid
16 to the City in the amount equal to the OLSE's costs of investigating and remedying the violations
17 at issue, and not to exceed the amount of \$871,300.00. Although the OLSE contends that the
18 amount to be paid to the City does not need to be tied to the cost of investigating and remedying
19 the violation at issue, Section 12R.7(b) of the MWO specifically states that the OLSE may order
20 payment on behalf of the City "to compensate the City for the costs of investigating and
21 remedying the violation." Although the Section further states that the payment to the City "shall be
22 allocated to the Agency [OLSE] and shall be used to offset the costs of implementing and
23 enforcing this Chapter," the two provisions are consistent with one another only if the amount of
24 payment to the City is allocated to the OLSE to cover the cost of enforcing the MWO with regard
25 to the violation at issue (i.e. investigating and remedying the violation). Accordingly, the payment

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1 which the OLSE orders on behalf of the City must be commensurate with the costs incurred in the
2 case. Because no evidence was submitted regarding the actual costs incurred to investigate and
3 remedy the violations at issue, no determination is made herein regarding the actual costs
4 incurred.

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Dated: October 2, 2006


Peter Kearns
Hearing Officer

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3 **TABLE 1**
4 **WITNESS LIST – OLSE and GOLDEN DRAGON RESTAURANT**

5

| HEARING DATE | NAME OF WITNESS | IDENTITY OF WITNESS |
|--|-----------------|---|
| April 24, 2006 | Donna Levitt | OLSE Manager |
| April 24, 2006 | Richard Waller | OLSE Supervising Compliance Officer |
| April 24, 2006 | Josh Pastreich | OLSE Compliance Officer |
| April 24, 2006; April 26, 2006; and June 9, 2006 | Robin Ho | OLSE Compliance Officer |
| April 24, 2006 | Yi Chao Zhao | Claimant #11 (Dishwasher) |
| April 24, 2006 | Han Ling Jiang | Claimant #25 (Take-out Dim Sum) |
| April 24, 2006 | Bi E. Xie | Claimant #4 (Dim Sum Server) |
| April 24, 2006 | Run Jin Liang | Claimant #18 (Salesperson) |
| April 24, 2006 | Helen Yu | Claimant #12 (Food Server) |
| April 24, 2006 | Yu Zhen Jiang | Claimant #15 (Personal housekeeper for Big Hong Ng – paid through Golden Dragon payroll, she also worked at the restaurant on an as-needed basis) |
| April 24, 2006 | Bao Ling Chen | Claimant #23 |
| April 24, 2006 | Hong Can Huang | Claimant #26 (Kitchen Helper) |
| April 26, 2006 | Raymond Yuen | Claimant #3 (Food Server) |
| April 26, 2006 | Dong Quan He | Claimant #17 (Food Server) |
| April 26, 2006 | Zhuo Hui Huang | Claimant #10 (Food Server) |
| April 26, 2006 | Cong Hua Huang | Claimant #2 (Bus Person) |

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3 **TABLE 1 (CONTINUED)**
4 **WITNESS LIST – OLSE and GOLDEN DRAGON RESTAURANT**

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| HEARING DATE | NAME OF WITNESS | IDENTITY OF WITNESS |
|-------------------|-----------------|---|
| 6 April 26, 2006 | Ming Bang Feng | Claimant #19 (Dim Sum Steamer & Dishwasher) |
| 7 April 26, 2006 | Zhi Rong Huang | Claimant #21 (Kitchen Helper) |
| 8 April 26, 2006 | Chik Ling Leung | Claimant #22 (Waitress) |
| 9 April 26, 2006 | Lai Chun Lian | Claimant #29 (Janitor) |
| 10 April 26, 2006 | Xin Sheng Kuang | Claimant #30 (Dim Sum Helper) |
| 11 April 26, 2006 | Su Chan Li | Claimant #20 (Dishwasher) |
| 12 April 26, 2006 | Kai Sam Chu | Claimant #24 (Cook) |
| 13 April 26, 2006 | Min Shan Liu | Claimant #1 (Dim Sum Seller, Bus Person, Hostess, Flyer Distributor) |
| 14 April 26, 2006 | Wo Han Huang | Claimant #14 (Bus Person) |
| 15 April 26, 2006 | Jie Chang Xu | Claimant #16 |
| 16 April 26, 2006 | Ming Hen Wong | Claimant #27 |
| 17 April 26, 2006 | Yat Yau Lam | Claimant #8 |
| 18 June 9, 2006 | Rui Hua Wu | Claimant #13 (Dim Sum Sales) |

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 4 **TABLE 2**
WAGES OWED FOR WORK PERFORMED DURING AUDIT PERIOD 2/23/04 TO 3/15/05

| Name of Employee | Period At Issue | Wages Earned | | Wages Paid | | Amount Owing |
|----------------------------------|----------------------|--------------|---|-------------|---|--------------|
| Min Shan Liu (Claimant #1) | 9/1/04 – 1/16/05 | \$2,107.47 | - | \$1,623.75 | = | \$483.72 |
| Cong Hua Huang (Claimant #2) | 9/16/04 – 3/15/05 | \$2,376.20 | - | \$2,073.80 | = | \$302.40 |
| Raymond Yuen (Claimant #3) | 2/23/04 – 3/15/05 | \$13,810.10 | - | \$11,729.88 | = | \$2,080.22 |
| Bie E. Xie (Claimant #4) | 2/23/04 – 2/28/05 | \$20,164.68 | - | \$15,987.03 | = | \$4,177.65 |
| Li Chan Huang (Claimant #5) | 2/23/04 – 3/15/05 | \$8,875.33 | - | \$8,704.44 | = | \$170.89 |
| Yue Hua Mai (Claimant #6) | 2/23/04 – 3/15/05 | \$8,026.16 | - | \$7,920.94 | = | \$105.22 |
| Xiao Min Chen (Claimant #7) | 10/1/04 – 3/15/05 | \$3,187.62 | - | \$2,017.89 | = | \$1,169.73 |
| Yat Yau Lam (Claimant #8) | 2/23/04 – 3/15/05 | \$11,735.46 | - | \$10,411.16 | = | \$1,324.30 |
| Zhuo Hui Huang (Claimant #10) | 2/23/04 – 3/15/05 | \$16,413.62 | - | \$13,524.15 | = | \$2,889.47 |
| Yi Chao Zhao (Claimant #11) | 2/23/04 – 3/15/05 | \$24,296.92 | - | \$18,735.93 | = | \$5,560.99 |
| Helen Yu (Claimant #12) | 2/23/04 – 3/15/05 | \$23,183.37 | - | \$18,403.17 | = | \$4,780.20 |
| Wo Han Huang (Claimant #14) | 4/16/04 – 1/31/06 | \$19,321.39 | - | \$12,709.50 | = | \$6,611.89 |
| Jie Chang Xu (Claimant #16) | 3/1/04 – 3/15/05 | \$10,516.84 | - | \$9,342.25 | = | \$1,174.59 |
| Dong Quan He (Claimant #17) | 2/23/04 – 2/28/05 | \$15,187.11 | - | \$12,805.39 | = | \$2,381.72 |
| Run Jin Liang (Claimant #18) | 2/23/04 – 3/15/05 | \$18,868.67 | - | \$15,722.20 | = | \$3,146.47 |
| Ming Bang Feng (Claimant #19) | 2/23/04 – 3/15/05 | \$18,593.81 | - | \$15,244.39 | = | \$3,349.42 |
| Su Chan Li (Claimant #20) | 2/23/04 – 3/15/05 | \$11,130.76 | - | \$9,243.02 | = | \$1,887.74 |
| Bao Ling Chen (Claimant #23) | 2/23/04 – 3/15/05 | \$12,949.84 | - | \$11,139.86 | = | \$1,809.98 |

TABLE 2 (CONTINUED)
WAGES OWED FOR WORK PERFORMED DURING AUDIT PERIOD 2/23/04 TO 3/15/05

| Name of Employee | Period Worked | Wages Earned | Wages Paid | Amount Owning |
|---|------------------------|--------------|-------------|--------------------|
| Ming Hen Wong (Claimant #27) | 2/23/04 – 3/15/05 | \$15,292.90 | \$13,295.31 | \$1,997.59 |
| Zhi Bin Huang (Claimant #28) | 2/23/04 – 3/15/05 | \$17,804.80 | \$14,083.91 | \$3,720.89 |
| Bi Wen Huang | 2/23/04 – 7/31/04 | \$1,389.75 | \$1,340.00 | \$49.75 |
| Yong Yu Lei | 3/1/04 – 5/15/04 | \$1,857.25 | \$1,708.50 | \$148.75 |
| Yan Qiong Li | 2/23/04 – 3/15/05 | \$17,662.04 | \$14,806.40 | \$2,855.64 |
| Yi Yin Lin | 10/16/04 – 10/31/04 | \$51.00 | \$0.00 | \$51.00 |
| Chun Hua Lin | 4/16/04 – 10/15/04 | \$4,016.25 | \$3,740.00 | \$276.25 |
| Xiao Ling Liao | 4/16/04 – 6/30/04 | \$1,292.00 | \$1,207.00 | \$85.00 |
| Jia Long Liu | 7/16/04 – 1/15/05 | \$7,344.38 | \$6,200.75 | \$1,143.63 |
| Yu Lin Ma | 2/23/04 – 6/15/04 | \$5,612.13 | \$4,772.75 | \$839.38 |
| Zhi Zhen Pan | 3/1/04 – 3/15/05 | \$17,356.28 | \$14,638.77 | \$2,717.51 |
| Thu Anh Phan | 6/26/04 – 7/15/04 | \$541.88 | \$514.25 | \$27.63 |
| Zhen Peng Wu | 2/23/04 – 9/15/04 | \$7,208.00 | \$6,281.50 | \$926.50 |
| Shu Yu Wu | 10/16/04 – 1/15/05 | \$845.75 | \$0.00 | \$845.75 |
| Zhan Hong Song | 2/23/04 – 10/31/04 | \$10,255.25 | \$8,308.75 | \$1,946.50 |
| Lian Cui Guan | 3/1/04 – 3/15/05 | \$13,079.86 | \$11,269.43 | \$1,810.43 |
| Chun Yan Zhao | 6/1/04 – 3/15/05 | \$9,399.45 | \$8,116.96 | \$1,282.49 |
| Fang Yan Lu | 2/23/04 – 5/31/04 | \$3,471.83 | \$2,958.00 | \$513.83 |
| TOTAL WAGES OWING FOR UNDERPAID WAGES DURING AUDIT PERIOD 2/23/04 TO 3/15/05 → | | | | \$64,645.12 |

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3 **TABLE 3**
4 **WAGES OWED FOR RECEIPT OF BAD PAYCHECKS**
5 **AND/OR NO PAYCHECKS IN 2005-2006**

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| Employee Name | Time Period at Issue | Wages Owed |
|-----------------------------------|----------------------|------------|
| Zhuo Hui Huang (Claimant #10) | 10/1/05 – 1/17/06 | \$4,263.86 |
| Yi Chao Zhao (Claimant #11) | 9/1/05 – 1/17/06 | \$5,501.92 |
| Helen Yu (Claimant #12) | 9/1/05 – 1/17/06 | \$5,489.99 |
| Rui Hua Wu (Claimant #13) | 7/1/05 – 1/15/06 | \$4,223.80 |
| Wo Han Huang (Claimant #14) | 10/1/05 – 1/8/06 | \$4,879.91 |
| Yu Zhen Jiang (Claimant #15) | 10/1/05 – 1/8/06 | \$4,700.00 |
| Jie Chang Xu (Claimant #16) | 7/15/05 – 1/17/06 | \$5,019.35 |
| Dong Quan He (Claimant #17) | 10/1/05 – 1/17/06 | \$4,639.56 |
| Run Jin Liang (Claimant #18) | 9/1/05 – 1/17/06 | \$5,556.60 |
| Ming Bang Feng (Claimant #19) | 9/1/05 – 1/17/06 | \$6,944.04 |
| Su Chan Li (Claimant #20) | 9/1/05 – 1/17/06 | \$3,391.97 |
| Zhi Rong Huang (Claimant #21) | 8/1/05 – 10/03/05 | \$8,673.07 |
| Chik Ling Leung (Claimant #22) | 9/1/05 – 1/17/06 | \$6,629.74 |
| Bao Ling Chen (Claimant #23) | 9/1/05 – 1/17/06 | \$3,594.54 |
| Chu Kai Sam (Claimant #24) | 1/1/06 – 1/17/06 | \$1,673.00 |
| Han Ling Jiang (Claimant #25) | 10/1/05 – 12/15/05 | \$5,667.65 |
| Hong Can Huang (Claimant #26) | 12/15/05 – 1/17/06 | \$2,943.40 |
| Ming Hen Wong (Claimant #27) | 7/16/05 – 1/17/06 | \$6,448.82 |
| Zhi Bin Huang (Claimant #28) | 12/20/04 – 12/7/06 | \$7,427.50 |

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OLSE and Golden Dragon Restaurant
Case No. MWO-C-036

TABLE 3 (CONTINUED)
WAGES OWED FOR RECEIPT OF BAD PAYCHECKS
AND/OR NO PAYCHECKS IN 2005-2006

| Employee Name | Time Period at Issue | Wages Owed |
|---|----------------------|---------------------|
| Lai Chun Lian (Claimant #29) | 2/1/05 – 11/30/05 | \$25,000.00 |
| Xin Sheng Kuang (Claimant #30) | 9/16/05 – 12/18/05 | \$6,361.56 |
| TOTAL WAGES OWED FOR BAD PAYCHECKS/NO CHECKS → | | \$129,030.28 |

TABLE 4
MAXIMUM PENALTIES THROUGH APRIL 21, 2006

| Name of Employee | First Occurrence | Number of Days of Violation | | Amount of Penalty Per Day | = | Total Penalty |
|----------------------------------|------------------|-----------------------------|---|---------------------------|---|---------------|
| Min Shan Liu (Claimant #1) | 9/1/04 | 598 | X | \$50.00 | = | \$29,900.00 |
| Cong Hua Huang (Claimant #2) | 9/16/04 | 583 | X | \$50.00 | = | \$29,150.00 |
| Raymond Yuen (Claimant #3) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Bie E. Xie (Claimant #4) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Li Chan Huang (Claimant #5) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Hua Yue Mai (Claimant #6) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Xiao Min Chen (Claimant #7) | 10/1/04 | 568 | X | \$50.00 | = | \$28,400.00 |
| Yat Yau Lam (Claimant #8) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Zhuo Hui Huang (Claimant #10) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Yi Chao Zhao (Claimant #11) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Helen Yu (Claimant #12) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Rui Hua Wu (Claimant #13) | 7/1/05 | 295 | X | \$50.00 | = | \$14,750.00 |
| Wo Han Huang (Claimant #14) | 4/16/04 | 736 | X | \$50.00 | = | \$36,800.00 |
| Yu Zhen Jiang (Claimant #15) | 10/1/05 | 203 | X | \$50.00 | = | \$10,150.00 |
| Jie Chang Xu (Claimant #16) | 3/1/04 | 782 | X | \$50.00 | = | \$39,100.00 |
| Dong Quan He (Claimant #17) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Run Jin Liang (Claimant #18) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Ming Bang Feng (Claimant #19) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Su Chan Li (Claimant #20) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| Zhi Rong Huang (Claimant #21) | 12/20/04 | 488 | X | \$50.00 | = | \$24,400.00 |

3 **TABLE 4 (CONTINUED)**
4 **MAXIMUM PENALTIES THROUGH APRIL 21, 2006**

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| Name of Employee | First Occurrence | Number of Days of Violation | | Amount of Penalty Per Day | | Total Penalty |
|--------------------------------------|------------------|-----------------------------|---|---------------------------|---|------------------------|
| 6 Chik Ling Leung (Claimant #22) | 9/1/05 | 233 | X | \$50.00 | = | \$11,650.00 |
| 7 Bao Ling Chen (Claimant #23) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| 8 Kai Sam Chu (Claimant #24) | 1/1/06 | 111 | X | \$50.00 | = | \$5,550.00 |
| 9 Han Ling Jiang (Claimant #25) | 10/1/05 | 203 | X | \$50.00 | = | \$10,150.00 |
| 10 Hong Can Huang (Claimant #26) | 12/15/05 | 128 | X | \$50.00 | = | \$6,400.00 |
| 11 Ming Hen Wong (Claimant #27) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| 12 Zhi Bin Huang (Claimant #28) | 2/23/04 | 789 | X | \$50.00 | = | \$39,450.00 |
| 13 Lai Chun Lian (Claimant #29) | 2/1/05 | 445 | X | \$50.00 | = | \$22,250.00 |
| 14 Xin Sheng Kuang (Claimant #30) | 9/16/05 | 218 | X | \$50.00 | = | \$10,900.00 |
| 15 TOTAL PENALTIES → | | | | | | 16 \$871,300.00 |

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TABLE 5
SUMMARY OF UNPAID WAGES AND MAXIMUM PENALTIES

| Name of Employee | Wages Owed for Audit Period 2/28/04 to 3/15/05 | Wages Owed for 05-06 Bad paychecks/No Checks | Maximum Penalty | Total |
|-------------------------------|--|--|-----------------|-------------|
| Min Shan Liu (Claimant #1) | \$483.72 | N/A | \$29,900.00 | \$30,383.72 |
| Cong Hua Huang (Claimant #2) | \$302.40 | N/A | \$29,150.00 | \$29,452.40 |
| Raymond Yuen (Claimant #3) | \$2,080.22 | N/A | \$39,450.00 | \$41,530.22 |
| Bie E. Xie (Claimant #4) | \$4,177.65 | N/A | \$39,450.00 | \$43,627.65 |
| Li Chan Huang (Claimant #5) | \$170.89 | N/A | \$39,450.00 | \$39,620.89 |
| Yue Hua Mai (Claimant #6) | \$105.22 | N/A | \$39,450.00 | \$39,555.22 |
| Xiao Min Chen (Claimant #7) | \$1,169.73 | N/A | \$28,400.00 | \$29,569.73 |
| Yat Yau Lam (Claimant #8) | \$1,324.30 | N/A | \$39,450.00 | \$40,774.30 |
| Zhuo Hui Huang (Claimant #10) | \$2,889.47 | \$4,263.86 | \$39,450.00 | \$46,603.33 |
| Yi Chao Zhao (Claimant #11) | \$5,560.99 | \$5,501.92 | \$39,450.00 | \$50,512.91 |
| Helen Yu (Claimant #12) | \$4,780.20 | \$5,489.99 | \$39,450.00 | \$49,720.19 |
| Rui Hua Wu (Claimant #13) | N/A | \$4,223.80 | \$14,750.00 | \$18,973.80 |
| Wo Han Huang (Claimant #14) | \$6,611.89 | \$4,879.91 | \$36,800.00 | \$48,291.80 |
| Yu Zhen Jiang (Claimant #15) | N/A | \$4,700.00 | \$10,150.00 | \$14,850.00 |
| Jie Chang Xu (Claimant #16) | \$1,174.59 | \$5,019.35 | \$39,100.00 | \$45,293.94 |
| Dong Quan He (Claimant #17) | \$2,381.72 | \$4,639.56 | \$39,450.00 | \$46,471.28 |
| Run Jin Liang (Claimant #18) | \$3,146.47 | \$5,556.60 | \$39,450.00 | \$48,153.07 |
| Ming Bang Feng (Claimant #19) | \$3,349.42 | \$6,944.04 | \$39,450.00 | \$49,743.46 |
| Su Chan Li (Claimant #20) | \$1,887.74 | \$3,391.97 | \$39,450.00 | \$44,729.71 |
| Zhi Rong Huang (Claimant #21) | N/A | \$8,673.07 | \$24,400.00 | \$33,073.07 |

TABLE 5 (CONTINUED)
SUMMARY OF UNPAID WAGES AND MAXIMUM PENALTIES

| Name of Employee | Wages Owed for Audit Period 2/28/04 to 3/15/05 | Wages Owed for 05-06 Bad paychecks/No Checks | Maximum Penalty | Total |
|--------------------------------|--|--|-----------------|-------------|
| Chik Ling Leung (Claimant #22) | N/A | \$6,629.74 | \$11,650.00 | \$18,279.74 |
| Bao Ling Chen (Claimant #23) | \$1,809.98 | \$3,594.54 | \$39,450.00 | \$44,854.52 |
| Kai Sam Chu (Claimant #24) | N/A | \$1,673.00 | \$5,550.00 | \$7,223.00 |
| Han Ling Jiang (Claimant #25) | N/A | \$5,667.65 | \$10,150.00 | \$15,817.65 |
| Hong Can Huang (Claimant #26) | N/A | \$2,943.40 | \$6,400.00 | \$9,343.40 |
| Ming Hen Wong (Claimant #27) | \$1,997.59 | \$6,448.82 | \$39,450.00 | \$47,896.41 |
| Zhi Bin Huang (Claimant #28) | \$3,720.89 | \$7,427.50 | \$39,450.00 | \$50,598.39 |
| Lai Chun Lian (Claimant #29) | N/A | \$25,000.00 | \$22,250.00 | \$47,250.00 |
| Xin Sheng Kuang (Claimant #30) | N/A | \$6,361.56 | \$10,900.00 | \$17,261.56 |
| Bi Wen Huang | \$49.75 | N/A | N/A | \$49.75 |
| Yong Yu Lei | \$148.75 | N/A | N/A | \$148.75 |
| Yan Qiong Li | \$2,855.64 | N/A | N/A | \$2,855.64 |
| Yi Yin Lin | \$51.00 | N/A | N/A | \$51.00 |
| Chun Hua Lin | \$276.25 | N/A | N/A | \$276.25 |
| Xiao Ling Liao | \$85.00 | N/A | N/A | \$85.00 |
| Jia Long Liu | \$1,143.63 | N/A | N/A | \$1,143.63 |
| Yu Lin Ma | \$839.38 | N/A | N/A | \$839.38 |
| Zhi Zhen Pan | \$2,717.51 | N/A | N/A | \$2,717.51 |
| Thu Anh Phan | \$27.63 | N/A | N/A | \$27.63 |
| Zhen Peng Wu | \$926.50 | N/A | N/A | \$926.50 |

3 **TABLE 5 (CONTINUED)**
4 **SUMMARY OF UNPAID WAGES AND MAXIMUM PENALTIES**

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| Name of Employee | Wages Owed for Audit Period 2/28/04 to 3/15/05 | Wages Owed for 05-06 Bad paychecks/No Checks | Maximum Penalty | Total |
|------------------|--|--|-----------------|------------|
| Shu Yu Wu | \$845.75 | N/A | N/A | \$845.75 |
| Zhan Hong Song | \$1,946.50 | N/A | N/A | \$1,946.50 |
| Lian Cui Guan | \$1,810.43 | N/A | N/A | \$1,810.43 |
| Chun Yan Zhao | \$1,282.49 | N/A | N/A | \$1,282.49 |
| Fang Yan Lu | \$513.83 | N/A | N/A | \$513.83 |

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PROOF OF SERVICE

I, DEBBIE TOY, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. I am employed at the Controller's Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Suite 316, San Francisco, CA 94102.

On October 2, 2006, I served the attached **STATEMENT OF FINDINGS OF HEARING OFFICER**, In the Matter of Golden Dragon Restaurant, 816 Washington Street, San Francisco – Possible Violation(s) of San Francisco Administrative Code Chapter 12R "Minimum Wage Ordinance," Office of Labor Standards Enforcement Case No. 036,

on the interested parties in said action, addressed as follows:

Golden Dragon Restaurant
Gin Bong (Jack) Lee and Big Hong Ng, Owners
816 Washington Street
822 Washington Street
San Francisco, CA 94108
Phone: 415-398-3920
Fax: 415-398-4550

Jill Figg, Deputy City Attorney
San Francisco City Attorney's Office, Labor Team
Fox Plaza, 1390 Market Street, 5th Floor
San Francisco, CA 94102-5408
Counsel for City and County of San Francisco Office of
Labor Standards Enforcement
Fax: 415-554-4248

Gregory R. De La Peña, Esq.
De La Peña & McDonald LLP
101 Spear Street, Suite 215
San Francisco, CA 94105
Counsel for Big Hong Ng
Phone: 415-227-4100
Fax: 415-227-4116

Donna Levitt, Division Manager
Office of Labor Standards Enforcement
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94549
Fax: 415-554-6291

Paul Wartelle, Esq.
Wartelle, Weaver & Schreiber
582 Market Street, Suite 1800
San Francisco, CA 94104
Counsel for Gim Bong (Jack) Lee
Phone No. 415-693-0504
Fax: 415-693-9102

Jonathan L. Steiner, Esq.
1000 Fourth Street, Suite 875
San Rafael, CA 94901
Counsel for Gim Bong (Jack) Lee
Phone: (415) 459-2000
Fax: (415) 459-3668

and served the named document in the manner indicated below:

BY MAIL: I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at the Office of the Controller, City and County of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Suite 316, San Francisco, California, 94102, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

BY FACSIMILE: I caused a copy(ies) of such document(s) to be transmitted via facsimile machine. The fax number of the machine from which the document was transmitted was (415) 554-7466. The fax number(s) of the machine(s) to which the document(s) were transmitted are listed above. The fax transmission was reported as complete and without error. I caused the transmitting facsimile machine to print a transmission record of the transmission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed October 2, 2006, at San Francisco, California.


DEBBIE TOY