

HEARING OFFICER ADMINISTRATIVE HEARING

OFFICE OF THE CONTROLLER

CITY AND COUNTY OF SAN FRANCISCO

IN THE MATTER OF:

CASE NO: MWO-246

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

**STATEMENT OF FINDINGS  
OF HEARING OFFICER**

and

HEARINGS: APRIL 20, 2009  
APRIL 21, 2009

CELL PRO and MAYRA CHIQUETE.

INTRODUCTION

On November 13, 2007, the San Francisco Office of Labor Standards Enforcement (OLSE) received a complaint from Rodolfo M. Garcia, a former employee of Cell Pro, alleging violations under the San Francisco Minimum Wage Ordinance (MWO) during the period September 22, 2007 through November 8, 2007. The claimant specifically alleged the following: (1) Cell Pro paid him less than the local minimum wage under the MWO; (2) he was not compensated in a timely manner; (3) he was not paid overtime; and (4) he was denied rest and meal breaks.

The OLSE began an investigation in OLSE Case No. MWO-246, and as its investigation continued, the OLSE determined that the former employee's claims were credible and the business had violated the Minimum Wage Ordinance. The OLSE contends that total wages and interest in the sum of \$4,412.22 is owed to the claimant (\$3,830.99 wages including payments for missed breaks + \$581.23 interest), and the department calculates that maximum penalties in the sum of \$56,800.00 are owed to the employee and the OLSE (\$28,400.00 in penalties owed to the employee and \$28,400.00 owed to the OLSE).

By letter dated September 23, 2008, Donna Levitt, Manager of the Office of Labor Standards Enforcement, requested that the Office of the Controller for the City and County of San

1 Francisco appoint an impartial hearing officer to conduct a hearing under San Francisco  
2 Administrative Code Section 12R.7(b) in regard to possible violations of the San Francisco  
3 Minimum Wage Ordinance by employer Cell Pro and its owner, Mayra Chiquete. (Hearing  
4 Officer's Exhibit 5)

5 By letter dated October 16, 2008, San Francisco Controller Ben Rosenfield informed Cell  
6 Pro owner Mayra Chiquete and Deputy City Attorney Jill Figg, counsel for the OLSE, that the  
7 Controller's Office appointed the undersigned hearing officer to conduct a hearing regarding  
8 alleged violations of the MWO. (Hearing Officer's Exhibit 6) The letter states in pertinent part:

9 "I hereby appoint Peter Kearns as the Hearing Officer in this matter. The  
10 Hearing Officer's role is to conduct a hearing that affords employer Cell  
11 Pro's due process regarding the possible violations referenced in OLSE's  
12 September 23rd letter. (Administrative Code Section 12R.7(b).)

13 The Hearing Officer will promptly set a hearing date and notify the parties.  
14 At the conclusion of the hearing, the hearing officer will provide written  
15 Findings of Fact to OLSE and to Mayra Chiquete of Cell Pro. OLSE will  
16 then make a final determination and notify Mayra Chiquete."

17 By letter dated October 17, 2008, the undersigned hearing officer provided written notice  
18 to the OLSE and Mayra Chiquete of Cell Pro that a hearing would be conducted on December 8,  
19 2008. Pursuant to the notice of hearing, the OLSE was requested to submit a pre-hearing  
20 statement on or before October 30, 2008, and Cell Pro was requested to submit a pre-hearing  
21 statement on or before November 13, 2008. (Hearing Officer's Exhibit 7) The OLSE was  
22 specifically requested to submit a "detailed statement of issues presented to the Hearing Officer  
23 for Findings," and Cell Pro was specifically requested to submit a "response to OLSE's statement  
24 of issues presented to the Hearing Officer for decision." On October 30, 2008, the OLSE  
25 submitted its pre-hearing statement, which included OLSE Exhibits A-T. (Hearing Officer's Exhibit  
26 8) The pre-hearing statement lists the following issues to be presented to the hearing officer:

- 27 (1) Did Mayra Chiquete and/or Cell Pro violate the MWO by failing to  
28 pay the minimum wage and/or overtime to Claimant, Rodolfo M.  
Garcia? If so, how much do they owe Claimant Garcia in back  
wages, interest, and administrative penalties?
- (2) Did Mayra Chiquete and/or Cell Pro violate the California Labor  
Code by failing to provide Rodolfo M. Garcia required meal breaks  
and rest periods? If so, how much do they owe Claimant Garcia in

meal and rest break penalties?

1  
2 (3) Did Mayra Chiquete and/or Cell pro violate the MWO? If so, how  
much do they owe the City in administrative penalties?

3 (4) Did Mayra Chiquete and/or Cell Pro fail to keep accurate records  
4 and/or provide the OLSE with reasonable access to its records for  
5 the relevant period? If so, should Mayra Chiquete and/or Cell Pro  
be ordered to produce the records requested and how much do  
they owe in administrative penalties?

6 Although the OLSE submitted a timely pre-hearing statement, Cell Pro did not submit any  
7 response. The OLSE subsequently requested and was granted a postponement of the December  
8 8, 2008 hearing for the purpose of contacting the employer to determine if a resolution could be  
9 reached without the need for a formal hearing.

10 On January 7, 2009, the OLSE revised its request to the Controller's Office for a hearing  
11 in the matter. (Hearing Officer Exhibit 9) By letter dated March 2, 2009, the undersigned hearing  
12 officer provided written notice to the OLSE and Mayra Chiquete that hearings would be  
13 conducted on March 16, 2009 and March 17, 2009. Pursuant to the notice of hearing, Cell Pro  
14 was requested to submit a pre-hearing statement on or before March 11, 2009. (Hearing Officer's  
15 Exhibit 10) The notice specifically requested Cell Pro to respond to the OLSE's October 30, 2008  
16 statement of issues presented to the hearing officer for decision.

17 On March 9, 2009, counsel for the OLSE sent Mayra Chiquete a letter inquiring whether  
18 Cell Pro wished to resolve the matter without the necessity of a hearing. (Hearing Officer's Exhibit  
19 11) Cell Pro did not respond to the March 9, 2009 letter, nor did it submit a pre-hearing statement  
20 by March 11, 2009.

21 On March 16, 2009, the OLSE appeared for the scheduled hearing. However, Mayra  
22 Chiquete did not appear at the hearing, nor did she contact the hearing clerk regarding her failure  
23 to appear. The OLSE's request on the record to reschedule the hearings for April 20, 2009 and  
24 April 21, 2009 was granted in order to provide the Controller's Office the opportunity to personally  
25 serve Mayra Chiquete with a new notice of hearing.

26 By letter dated March 17, 2009, the undersigned hearing officer provided written notice to  
27 the OLSE and Mayra Chiquete of the rescheduled hearings, and the employer was requested to  
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1 submit its pre-hearing statement on or before April 13, 2009. (Hearing Officer's Exhibit 13)

2 On March 23, 2009, the OLSE submitted a revised pre-hearing statement, which includes  
3 OLSE Exhibits A-U. (Hearing Officer's Exhibit 15) The pre-hearing statement lists the same  
4 issues for decision which were stated in the October 30, 2008 pre-hearing statement.

5 On April 3, 2009, Cell Pro submitted a pre-hearing statement, which states in relevant  
6 part:

7 "Cell Pro denies ever employing Mr. Garcia. Cell Pro is owned by Mayra  
8 Chiquete and managed by her partner, Shikeb Saddozai. The company  
has no employees.

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9 The burden of proof rests with the OLSE, to establish, by a  
10 preponderance of the evidence that Rodolfo Garcia was an employee of  
11 Cell Pro, who was not paid for work performed. Garcia must produce  
competent evidence to establish both the days and hours worked."

12 (Hearing Officer's Exhibit 14) The pre-hearing statement includes Cell Pro Exhibits 1-12.

13 Public hearings were conducted at City Hall Room 479 on April 20, 2009 and April 21,  
14 2009. Deputy City Attorney Jill Figg Dayal represented the Office of Labor Standards  
15 Enforcement at both hearings, and attorney Ellen Mendelson represented Cell Pro and its owner,  
16 Mayra Chiquete.

17 At the hearings, the parties had full opportunity to present relevant evidence and  
18 argument. Hearing Officer's Exhibits 1 through 15 were entered into the record, as were OLSE  
19 Exhibits A through W and Cell Pro Exhibits 1 through 13. The OLSE called six witnesses  
20 including the claimant, and Cell Pro called four witnesses including the owner. Those who  
21 testified did so under oath. Table 1 ("Witness List – OLSE and Cell Pro"), attached and  
22 incorporated, sets forth the name and identity of each of the witnesses who testified under oath,  
and the date the witness appeared.

23 The record closed at the adjournment of the April 21, 2009 hearing.

## 24 SUMMARY OF LEGAL STANDARDS AND EVIDENCE

25  
26 1. On February 23, 2004, San Francisco established a minimum hourly wage for  
27 employees pursuant to Administrative Code Section 12R (the Minimum Wage Ordinance or  
28

1 MWO). Under MWO Section 12R.4, San Francisco employers shall pay to employees no less  
2 than the minimum wage for each hour worked in the geographic boundaries of the City. The local  
3 minimum wage exceeds the State minimum wage, and it is adjusted each year based on  
4 increases in the regional Consumer Price Index for urban wage earners and clerical workers.

5 2. Pursuant to Section 12R.3(b) of the MWO, an employer is any person, as defined  
6 in Section 18 of the California Labor Code, including corporate officers or executives, who directly  
7 or indirectly or through an agent or another person, including through the services of a temporary  
8 services or staffing agency or similar entity, employs or exercises control over the wages, hours  
9 or working conditions of any employee.

10 3. Under Section 12R.3(a) of the MWO, an employee is any person who, in a  
11 particular week, performs at least two (2) hours of work for an employer within the geographic  
12 boundaries of the City, and qualifies as an employee entitled to payment of a minimum wage from  
13 any employer under the California minimum wage law, as provided under Section 1197 of the  
14 California Labor Code and wage orders published by the California Industrial Welfare  
15 Commission, or is a participant in a Welfare-to-Work Program.

16 4. Cell Pro was formerly located in kiosks in the Westfield Center at 845 Market  
17 Street in San Francisco and at the Metreon Center located at 101 Fourth Street in San Francisco.  
18 Both operations were owned by Mayra (Gina) Chiquete and specialized in the sale of cell phone  
19 accessories during the approximate period of February 2007 through the summer of 2008. Mayra  
20 Chiquete testified that Shikeb (Steve) Saddozai is her domestic partner, and also her Cell Pro  
21 business partner. However, Mr. Saddozai is not listed as an owner on any business licenses.

22 5. The yearly amount of San Francisco's minimum hourly wage under Administrative  
23 Code Section 12R.4, is set forth below for each year since the MWO took effect in February  
24 2004:

TIME PERIOD	MINIMUM WAGE	APPLICABILITY
2/23/04 to 12/31/04	\$8.50	Nonprofits and small businesses (10 employees or less) exempt
1/1/05 to 12/31/05	\$8.62	\$7.75 for nonprofits and small businesses

TIME PERIOD	MINIMUM WAGE	APPLICABILITY
1/1/06 to 12/31/06	\$8.82	All nonprofits and businesses
1/1/07 to 12/31/07	\$9.14	All nonprofits and businesses
1/1/08 to 12/31/08	\$9.36	All nonprofits and businesses
1/1/09 to 12/31/09	\$9.79	All nonprofits and businesses

6. In addition to paying the minimum hourly wage under the MWO, San Francisco employers are required to pay overtime pursuant to State law. The Industrial Welfare Commission (IWC) of the Department of Industrial Relations promulgates Industrial Welfare Commission Orders, which govern wages, hours, and working conditions in California. IWC Order No. 4-2001 subjects retail businesses to the following state overtime requirements:

[E]mployees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7<sup>th</sup>) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7<sup>th</sup>) consecutive day of work in a workweek.

Accordingly, a retail establishment in San Francisco must pay at least the minimum hourly rate under the MWO for the first 8 hours of work in a day, and for the first 40 hours of work in a week. Additionally, a San Francisco retail establishment must pay time and a half for: (1) all hours worked in excess of 8 hours (up to 12 hours) in any given day (unless it's the seventh consecutive day of work in a workweek, which requires double-time pay); (2) all hours worked in excess of 40 hours per week; and (3) the first 8 hours worked on the seventh consecutive day of work in a workweek. Finally, a San Francisco retail establishment must pay double time for: (1) all

1 hours worked in excess of 12 hours in any workday; and (2) all hours worked in excess of 8 hours  
2 on the seventh consecutive day of work in a workweek.

3 7. IWC Order No. 4-2001 also requires California retail establishments to provide  
4 meal breaks and rest breaks as follows:

5 Meal Periods.

6 No employer shall employ any person for a work period of more than five  
7 hours without a meal period of not less than 30 minutes, except that when  
8 a work period of not more than six hours will complete the day's work the  
9 meal period may be waived by mutual consent of the employer and the  
10 employee. If an employer fails to provide an employee a meal period in  
11 accordance with a required meal break, the employer shall pay the  
12 employee one hour of pay at the employee's regular rate of compensation  
13 for each workday that the meal period is not provided.

14 Under the DLSE Policies and Interpretations Manual Section 45.2.8, only  
15 one meal period premium is imposed each day. Thus, if an employer  
16 employed an employee for 12 hours in one day without any meal period,  
17 the penalty would be only one hour at the employee's regular rate of pay.

18 Rest Periods.

19 Every employer shall authorize and permit all employees to take rest  
20 periods, which insofar as practicable shall be in the middle of each work  
21 period. The authorized rest period time shall be based on the total hours  
22 worked daily at the rate of 10 minutes net rest time per 4 hours of work or  
23 major fraction thereof (a rest break is not required for a workday of three-  
24 and-one-half hours). Rest periods are counted as time worked. If an  
25 employer fails to provide an employee with required rest periods, the  
26 employer shall pay the employee one hour of pay at the employee's  
27 regular rate of compensation for each workday that the rest period is not  
28 provided.

Under the DLSE Policies and Interpretations Manual Section 45.3.7, only  
one rest period premium is imposed each day. Therefore, only one hour  
for failure to provide a rest period may be imposed regardless of the  
number of rest periods missed.

8. Pursuant to Section 12R.7(b) of the Minimum Wage Ordinance, the Office of Labor  
Standards Enforcement is authorized to take appropriate steps to enforce the MWO, and may  
investigate any possible violations of the MWO by an employer. Pursuant to San Francisco  
Administrative Code 2A.23, the Office of Labor Standards Enforcement may also enforce the  
provisions of the California Labor Code to the extent permitted by State Law. Additionally,  
California Labor Code §2666 provides that state and county government entities have all of the

1 powers of an authorized representative of the Department of Industrial Relations in the  
2 investigation of suspected Labor Code violations.

3 9. OLSE Compliance Officers Laurence Griffin and Robin Ho investigated the wage  
4 claim at issue, with Mr. Griffin taking the lead role in the investigation. Mr. Griffin testified that the  
5 OLSE only investigates the wage payment practices of a business following an employee  
6 complaint, which is what precipitated the Cell Pro investigation.

7 10. On November 13, 2007, claimant Rodolfo Garcia filed a wage claim with the OLSE.  
8 The claimant specifically alleged the following: (1) Cell Pro paid him less than the local minimum  
9 wage under the MWO; (2) he was not compensated in a timely manner; and (3) he was denied  
10 rest and meal breaks. (OLSE Exhibit A) In addition to the initial claims raised by Mr. Garcia, the  
11 OLSE also determined that Mr. Garcia was not compensated for seven days of training while  
12 performing his job functions.

13 11. Claimant Garcia testified that Mayra Chiquete offered him a sales position at Cell  
14 Pro in September 2007, at which time he worked at the Proactive kiosk directly next to the Cell  
15 Pro kiosk at the Westfield Center. Mr. Garcia credibly testified that he decided to leave Proactive  
16 and go to work for Cell Pro because he wasn't promoted to a manager position that he applied for  
17 at Proactive, and he wanted to work for Ms. Chiquete because she seemed friendly. According to  
18 Mr. Garcia, Ms. Chiquete offered to employ him under the following terms: (1) he would not be  
19 paid for a week of training beginning around September 22, 2007; (2) he would be paid \$8.00 an  
20 hour for the first two weeks of work after training; (3) he would be paid \$9.00 per hour after the  
21 first two weeks of work; and (4) he would be paid once a month in cash.

22 12. Claimant Garcia offered consistent and credible testimony as to the following:

23 (a) He was trained during the period September 22, 2007 to September 30, 2007 at the  
24 Westfield Center;

25 (b) Although most of his training was at the Westfield Center, he worked primarily at the  
26 Metreon after training;

27 (c) The Metreon kiosk was open from 10:00 AM to 9:00 PM Monday through Friday, and  
28 10:00 AM to 10:00 PM Saturday and Sunday;



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(d) During the month of October 2007, he worked almost every day for 11 or 12 hours per day (12 hours on Friday and Saturday and 11 hours all other days); and

(e) He had the first 6 days in November 2007 off and he quit after working November 7<sup>th</sup> and 8<sup>th</sup> because he wasn't paid in full for work performed in October as originally promised. Specifically he was paid \$1,178.00 in cash on November 8, 2007, which was only a portion of the wages he was owed.

13. Claimant Garcia also credibly testified in detail about the daily operations of the Cell Pro kiosk, including opening procedures, the type of merchandise sold by the business, merchandise pricing, package deliveries, and closing procedures. Mr. Garcia also credibly testified that he was not provided with any rest or meal breaks while he worked for Cell Pro. Mr. Garcia further testified that when he first started working for Cell Pro in late September 2007, an Asian woman named Mel also started working for the business, and she worked primarily at the Westfield location. According to Mr. Garcia, Mel worked at Westfield for at least a couple of months.

14. The OLSE submitted an audit showing that the claimant worked the following hours between September 22, 2007 and November 8, 2007, which audit the claimant credibly testified was accurate:

DATE	HOURS WORKED
9/22/07	10 hours
9/23/07	10 hours
9/24/07	6 hours
9/27/07	7 hours
9/28/07	7 hours
9/29/07	10 hours
9/30/07	10 hours
10/04/07	11 hours
10/05/07	12 hours
10/06/07	12 hours
10/07/07	11 hours
10/08/07	11 hours
10/09/07	11 hours
10/10/07	11 hours
10/11/07	11 hours
10/12/07	12 hours
10/13/07	12 hours
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10/15/07	11 hours

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DATE	HOURS WORKED
10/16/07	11 hours
10/17/07	11 hours
10/18/07	11 hours
10/19/07	12 hours
10/20/07	12 hours
10/21/07	11 hours
10/22/07	11 hours
10/23/07	11 hours
10/24/07	11 hours
10/25/07	11 hours
10/26/07	12 hours
10/27/07	12 hours
10/28/07	11 hours
10/29/07	11 hours
10/30/07	11 hours
10/31/07	11 hours
11/07/07	11 hours
11/08/07	11 hours

15. On November 14, 2007, the day after Mr. Garcia filed his claim, OLSE Compliance Officers Robin Ho and Laurence Griffin conducted a site visit of the Cell Pro kiosk at the Westfield Center, at which time Steve Saddozai was working. Laurence Griffin testified that he introduced himself to Mr. Saddozai and informed him that the OLSE had received an employee complaint. Mr. Griffin testified that Mr. Saddozai stated that the business had no employees. Both Laurence Griffin and Robin Ho testified that there was a "Help Wanted" sign posted on the Westfield kiosk during the November 14, 2007 site visit.

16. Ms. Ho delivered to Mr. Saddozai a letter during the November 14, 2007 visit, which was addressed to Mayra Chiquete, and states in pertinent part:

"The Office of Labor Standards Enforcement (OLSE) received a complaint alleging non-compliance with the San Francisco Administrative Code Chapter 12R, Minimum Wage Ordinance (MWO). Under Section 12R.7(b) of the MWO, the OLSE is granted authority to investigate any possible violations and where it has reason to believe that a violation has occurred, order temporary or interim relief to mitigate violations.

Pursuant to Section 12R.7(b) of the MWO, please provide the documents specified below for Cell Pro, subsidiaries and parent companies operating within the geographic boundaries of the City and County of San Francisco:

1. Copies of original time cards, sign-in sheets, ledgers and any and all payroll records which show the actual hours worked each day

1 for each employee for the period February 23, 2004 to the  
2 present.

- 3 2. Copies of the payroll check stub details and/or itemized pay stubs.  
4 Those records, as per Labor Code Section 226, should include the  
5 number of hours worked, the rate of pay, all deductions, net  
6 wages earned, the payroll period, the name of the employee and  
7 his/her social security number, the name of the employer, for each  
8 employee for the period February 23, 2004 to the present.
- 9 3. A list of former and current employees with addresses and  
10 telephone numbers. Please include on the list all those employees  
11 who worked for the period from February 23, 2004 to the present.

12 Pursuant to sections referenced above; these records are to be provided  
13 upon OLSE's request. The above requested documents are due in the  
14 OLSE office no later than close business **Thursday, November 29,**  
15 **2007.**"

16 (OLSE Exhibit F)

17 17. Robin Ho testified that on November 15, 2007, she went to both the Westfield and  
18 Metreon kiosks to observe business operations. Ms. Ho credibly testified that Mayra Chiquete and  
19 an Asian woman were working at the kiosk at the Westfield Center, and the "Help Wanted" sign  
20 was no longer posted. Ms. Ho further testified that she observed Steve Saddozai working at the  
21 Metreon, and she also observed a "Help Wanted" sign posted at the Metreon location. During a  
22 third site visit on November 19, 2007, Robin Ho photographed the Westfield kiosk, which had a  
23 sign posted on it that reads: "NOW HIRING FULLTIME! PART TIME!" (OLSE Exhibits G & H) Ms.  
24 Ho credibly testified that during the November 15, 2007 site visit, she introduced herself to a  
25 woman named Ann Marie who was working at the kiosk and who informed Ms. Ho that she was  
26 recently hired and in training. Ms. Ho testified that Ann Marie was the Asian woman she had  
27 previously observed working at the kiosk.

28 18. On November 19, 2007, Mayra Chiquete delivered a letter to the OLSE which  
states:

"I Mayra Chiquete owner of Cell Pro declare that I and family members  
are the only people working At the Cell Pro. Due to this fact I can not  
provide pay stubs etc. per your requests since myself and family are the  
only ones working at this establishment."

(OLSE Exhibit I)

19. Laurence Griffin testified that although Mayra Chiquete claimed that she had no

1 employees, the OLSE investigation indicated otherwise. The OLSE submitted a declaration from  
2 Amber Pete, who formerly worked in the Proactive kiosk at the Westfield Center, as well as a  
3 declaration from Nagi Mohammed who formerly worked as a security guard at the Metreon. The  
4 declaration of Amber Pete is dated November 26, 2007 and states:

5 "I, Amber Pete, declare as follows:

6 That I have personal knowledge of the contents of this declaration; and if  
7 called upon to testify, could and would testify competently to the contents  
8 of this declaration.

8 Between September 28, 2007 and September 31, 2007 I witnessed  
9 Rodolfo Garcia working at the Cellular Pro kiosk in the basement of the  
10 Westfield Mall. I witnessed Rodolfo Garcia assisting a customer as a  
11 regular employee would."

12 (OLSE Exhibit K)

13 20. The declaration of Nagi Mohammed is also dated November 26, 2007 and states:

14 "I, Nagi N. Mohammed, declare under penalty of perjury that the  
15 statement below is true and correct to the best of my knowledge.

16 I witness Rodolfo Garcia had worked at the Cell Pro kiosk in the first floor  
17 of the Metreon, which was located at 101 Fourth Street, San Francisco,  
18 CA 94103. I also witness Rodolfo Garcia assisting customers as a regular  
19 employee would."

20 (OLSE Exhibit J)

21 21. On January 15, 2008, the OLSE delivered to Mayra Chiquete a Notice of  
22 Determination stating that the OLSE had determined that Cell Pro owed claimant Garcia wages,  
23 interest and meal break payments in the sum of \$3,994.07. (OLSE Exhibit O) The notice informed  
24 Ms. Chiquete that if she did not agree with the determination, she could request a due process  
25 hearing.

26 22. By letter dated January 17, 2008, Mayra Chiquete informed the OLSE of the  
27 following (misspellings/typos in original):

28 "I declare by the state of California that I am sole propierater of the Cell  
Pro kiosk And affirm that I and my family memebbers are the only people  
who contend to working the Cell Pro booth. I do not have workers comp  
because I do not have any employees therefore I do not recall any named  
individual by Rudolf Garcia working for me. This is a false claim and  
accusation against me and my business. I am requesting this matter be

1 dropped or go to hearing due to the fact that these are false allegations  
2 against me.”

3 (OLSE Exhibit M)

4 23. Although Mayra Chiquete’s declarations state that she and “family members” are the  
5 only people who ever worked at Cell Pro, Ms. Chiquete and Steve Saddozai testified at the April  
6 21, 2008 hearing that only they, and no other family members, worked at the Cell Pro kiosks.  
7 According to their testimony, they each worked at the Cell pro kiosks between 10 and 12 hours per  
8 day – every day – between February 2007 and the summer of 2008, with the few exceptions when  
9 the malls were closed for holidays.

10 24. Mr. Saddozai testified that he often used “Help Wanted” signs to lure customers to  
11 the kiosks. According to his testimony, he would try to sell cell phone accessories to anyone who  
12 approached the kiosk looking for work – which ploy, he contends, was often successful.

13 25. Cell Pro submitted leases and regulations pertaining to the operation of the Cell Pro  
14 kiosks to show that only Mayra Chiquete and Steve Saddozai are listed on any of the business  
15 documents. (Cell Pro Exhibit 1-12) Cell Pro argues that the fact that the business never carried  
16 worker’s comp insurance tends to prove that the business never had any employees.

17 26. Yhlas (Malik) Yagshiyev testified on behalf of Cell Pro at the April 20, 2008 hearing.  
18 Mr. Yagshiyev testified that he worked at RC Mini Helicopters in the Westfield Center between  
19 October 2007 and December 2007. During that time, Mr. Yagshiyev testified that he saw Mayra  
20 Chiquete and Steve Saddozai working at the Cell Pro kiosk, and he also saw an Asian woman  
21 working there on at least several occasions. Mr. Yagshiyev testified that he never saw claimant  
22 Garcia working at the Westfield location.

23 27. Ernest (Bob) Cunanan also testified on behalf of Cell Pro at the April 20, 2008  
24 hearing. Mr. Cunanan testified that he has worked at Bristol Farms in the Westfield Center since  
25 September 2007. According to Mr. Cunanan, he often walked by the Cell Pro kiosk during his mea  
26 break and he only saw Mayra Chiquete and Steve Saddozai working there.

27 28. Cell Pro also submitted a notarized statement from Monica Villaluna Villarente who  
28 worked at the Mrs. Fields’ Cookies in the Westfield Center. The statement is dated December 4,

1 2008, and states:

2 "My name is Monica and I used to work at Mrs. Fields, which was near  
3 where Cell Pro used to be. I only witnessed Myra (Gina) and her family  
4 working."

5 (Cell Pro Exhibit 7)

6 29. Eunice Soto testified on behalf of the OLSE at the April 20, 2008 hearing. Ms. Soto  
7 testified that from September 2007 through December 2007, she worked at two separate sunglass  
8 kiosks located at the Westfield Center and the Metreon ("NYS Collections"), and the sunglass kiosk  
9 at the Metreon was located directly adjacent to the Cell Pro kiosk. Ms. Soto testified that although  
10 she worked at both kiosk locations, she primarily worked at the Metreon in October 2007. Ms. Soto  
11 provided detailed, consistent, and credible testimony about her employment at the Metreon kiosk in  
12 October 2007. Based on her credible testimony, she worked directly next to claimant Garcia at the  
13 Cell Pro kiosk about five times a week, and she and Mr. Garcia spent a substantial amount of time  
14 talking during their shifts and they also watched each other's kiosks to take bathroom breaks or to  
15 grab a bite to eat.

16 30. Claimant Garcia testified that while he was still working at Proactive, a coworker  
17 from Proactive named Shirley Reyes left Proactive to work for Cell Pro but she quit Cell Pro before  
18 he started working there. Ms. Reyes brought a separate claim against Cell Pro through the  
19 Department of Labor Standards Enforcement (DLSE) and prevailed. Cell Pro subsequently  
20 appealed that matter, which appeal is still pending. (OLSE Exhibit U)

21 31. Cell Pro denies ever employing Shirley Reyes, and the business contends that Ms.  
22 Reyes and Rodolfo Garcia have conspired to commit a fraud by fabricating a story that they  
23 worked for Cell Pro even though they never did. Counsel for Cell Pro argued that OLSE and the  
24 San Francisco City Attorney's office are "using the power of the sovereign in a hideous manner" to  
25 aid in the fraud by assisting the claimant. No evidence was presented to substantiate such a claim.

26 32. Claimant Garcia testified that in November 2007, he became concerned about his  
27 employment at Cell Pro because he had not yet been paid for his first month of work at the end of  
28 October, as initially promised. Mr. Garcia's cell phone statement for November 2007 shows that he  
made a telephone call to the Cell Pro kiosk at the Westfield Center (415-538-3448), at 9:34 AM on

1 November 8, 2007, which call he contends was made to ask Ms. Chiquete to pay him for October's  
2 work. The call lasted one minute. Mr. Garcia credibly testified that after he demanded payment,  
3 Ms. Chiquete paid him \$1,128.00 in cash on November 8, 2007, which amount was only a portion  
4 of what he was owed. According to Mr. Garcia, he demanded additional payment but Ms. Chiquete  
5 informed him that she could not afford to pay him any additional wages until later.

6 33. Mr. Garcia testified that although he was scheduled to work on November 9, 2007,  
7 he did not report to work that day because he had not been paid for all the hours he worked in  
8 October. Mr. Garcia's cell phone bill shows that he received a telephone call from the Cell Pro  
9 kiosk at the Westfield Center at approximately 10:20 AM on November 9, 2007, which call lasted  
10 for three minutes. According to Mr. Garcia, Mayra Chiquete called him to ask why he had not  
11 opened the Metreon kiosk, and he told her he would not return to work until he was paid in full for  
12 October. Mr. Garcia further testified that Ms. Chiquete did not agree to pay him, and he therefore  
13 quit.

14 34. Mr. Garcia testified that he made another plea for payment on November 12, 2007,  
15 and his cell phone bill shows that he made a telephone call to the Westfield kiosk on that date,  
16 which call lasted for one minute. According to Mr. Garcia, Ms. Chiquete denied knowing who he  
17 was when he called her, and he therefore filed his claim with the OLSE the following day on  
18 November 13, 2007. Mr. Garcia's cell phone records show that he made one additional call to the  
19 Westfield kiosk at 5:02 PM on November 13, 2007, and Mr. Garcia testified that he called Ms.  
20 Chiquete to make a final plea for payment, which plea was ignored.

21 35. Mayra Chiquete testified that she only knows of claimant Garcia from seeing him  
22 work at the Proactive kiosk, and because he ordered a cell phone carrying case from Cell Pro in  
23 October 2007. Ms. Chiquete submitted into evidence a list of customer telephone numbers, which  
24 includes Mr. Garcia's name and number. (Cell Pro Exhibit 13 – all numbers other than Mr. Garcia's  
25 have been redacted to protect privacy rights) At the top of the list it states: "Oct. 2007." The list was  
26 submitted after Mr. Garcia's testimony and Mr. Garcia did not provide additional testimony after the  
27 document was submitted into evidence. Ms. Chiquete contends that any telephone calls between  
28 her and the claimant related to his carrying case order.

1 36. During her cross-examination at the April 21, 2009 hearing, Mayra Chiquete was  
2 asked whether she had any ownership interest in any other cell phone businesses, and she  
3 unequivocally answered that she did not. When asked, she specifically testified that she has no  
4 ownership interest in, nor has she ever worked at, any cell phone business located at the Stanford  
5 Shopping Center in Palo Alto. However, that testimony was refuted by OLSE staff members. OLSE  
6 Manager Donna Levitt credibly testified that during a hearing break on April 21, 2009 she  
7 contacted the leasing agent for the Stanford Shopping Center and was informed that Mayra  
8 Chiquete had co-signed a lease for a cell phone business ("My Cell For You") in May 2008, and the  
9 business remained in operation. OLSE Compliance Officer Josh Pastreich testified that on the  
10 morning of April 21, 2009, he drove to the Stanford Shopping Center and observed that the cell  
11 phone business was closed. When Mr. Pastreich asked a nearby retailer who operated the cell  
12 phone business he was told that it was operated by a woman named Gina, which is Ms. Chiquete's  
13 nickname.

14 37. After hearing testimony from the OLSE staff regarding the cell phone business at  
15 the Stanford Shopping Center, Mayra Chiquete testified that her business partner Steve Saddozai  
16 owns the business. Mr. Saddozai testified that he operated the Stanford business entirely on his  
17 own beginning in May 2008, which undermined his previous testimony that he was working all day,  
18 every day, at the San Francisco Cell Pro kiosks through the summer of 2008.

19 **Wage Claim Calculation**

20 38. The OLSE calculates that Mr. Garcia should have been paid wages in the amount of  
21 \$4,382.63 for work performed during the period September 22, 2007 through November 8, 2007,  
22 during which period the minimum wage under the MWO was \$9.14 per hour. The OLSE submitted  
23 a detailed breakdown of its calculations, which shows the following wages owed for the following  
24 periods:

Pay Period Ending	Wages Owed
9/30/07	\$584.96
10/15/07	\$1,512.67
10/31/07	2,056.50
11/15/07	\$228.50
<b>TOTAL</b>	<b>\$4,382.63</b>



1 (OLSE Exhibit S) The sum of \$4,382.63 includes payment for all regular, overtime, and double time  
2 hours worked including during training in September 2007. From the total sum owed, the OLSE  
3 should have deducted \$1,128.00 to credit Cell Pro for the payment that Mr. Garcia contends he  
4 received. However, in its calculation, the OLSE mistakenly subtracted \$1,228.00 instead of  
5 \$1,128.00.

#### 6 **Rest Break/Meal Break Calculation**

7 39. In addition, the OLSE calculates that the claimant is owed a sum of \$676.36 for  
8 missed rest breaks and meal breaks because he worked 37 shifts during the period at issue. The  
9 sum of \$676.36 includes a payment of the minimum wage of \$9.14 for two hours per workday for  
10 missed rest breaks (1 hour per day) and meal breaks (1 hour per day) pursuant to IWC Order No.  
11 4-2001 (37 shifts X 2 hrs/shift = 74 hours X \$9.14/hr = \$676.36).

#### 12 **Interest Sought by the OLSE**

13 40. Section 12R.7(d) of the MWO provides that in any administrative action brought for  
14 the nonpayment of wages under the MWO, interest shall be awarded on all due and unpaid wages  
15 at the rate of interest specified in California Civil Code §3289(b). The section further provides that  
16 interest shall accrue from the date the wages were due and payable to the date the wages are paid  
17 in full. California Civil Code §3289(b) provides for simple interest at the rate of 10% per annum. In  
18 this case, the OLSE seeks a determination as to the amount of interest owed to Mr. Garcia  
19 beginning on the first day he was underpaid (September 30, 2007 if the employer paid on a  
20 standard bi-weekly schedule) through April 19, 2009, the day before the first hearing. The OLSE  
21 calculated interest owing in the amount of \$581.23.

#### 22 **Penalties Sought by the OLSE on Behalf of the Claimants and the Department**

23 41. Section 12R.7(b) of the MWO provides that penalties may be assessed on behalf  
24 of an employee when an employer fails to pay the minimum wage. Where the OLSE, after a  
25 hearing that affords a suspected violator due process pursuant to Administrative Code Section  
26 12.R.7(b), determines that a violation has occurred, it may order any appropriate relief including,  
27 but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the

1 payment of an additional sum as an administrative penalty in the amount of \$50.00 to each  
2 employee or person whose rights under the MWO were violated for each day or portion thereof  
3 that the violation occurred or continued. Pursuant to Section 12R.7(b), a violation for unlawfully  
4 withholding wages shall be deemed to continue from the date immediately following the date that  
5 the wages were due and payable to the date preceding the date the wages are paid in full.  
6 Section 12.R.7(b) further provides that the OLSE may also order a violating employer or person  
7 to pay to the OLSE a sum of not more than \$50.00 for each day or portion thereof and for each  
8 employee or person as to whom the violation occurred or continued (\$50.00 per day multiplied by  
9 the number of underpaid employees). Payments to the OLSE are "to compensate the City for the  
10 costs of investigating and remedying the violation."

11 42. In this case, the OLSE requests a determination of maximum penalties that may  
12 be assessed on behalf of claimant Garcia (calculated at \$28,400.00), as well as the maximum  
13 payment that may be assessed on behalf of the department (calculated at \$28,400.00), for the  
14 period the violations continued through April 19, 2009, the day before the first hearing.

#### 15 HEARING OFFICER'S FINDINGS

16 1. The undersigned hearing officer shall make written findings on the following  
17 issues:

18 (1) Did Mayra Chiquete and/or Cell Pro violate the MWO by failing to pay the  
19 minimum wage and/or overtime to Claimant, Rodolfo M. Garcia? If so, how  
20 much do they owe Claimant Garcia in back wages, interest, and  
21 administrative penalties?

22 (2) Did Mayra Chiquete and/or Cell Pro violate the California Labor Code by  
23 failing to provide Rodolfo M. Garcia required meal breaks and rest periods? If  
24 so, how much do they owe Claimant Garcia in meal and rest break penalties?

25 (3) Did Mayra Chiquete and/or Cell pro violate the MWO? If so, how much do  
26 they owe the City in administrative penalties?

27 (4) Did Mayra Chiquete and/or Cell Pro fail to keep accurate records and/or  
28

1 provide the OLSE with reasonable access to its records for the relevant  
2 period? If so, should Mayra Chiquete and/or Cell Pro be ordered to produce  
3 the records requested and how much do they owe in administrative  
4 penalties?

5 2. The threshold question in this case is whether Cell Pro employed claimant Rodolfo  
6 Garcia. Based on all of the evidence, the undersigned hearing officer finds that Cell Pro employed  
7 Mr. Garcia during the period September 22, 2007 through November 8, 2007. This determination  
8 is supported by the claimant's credible testimony regarding his employment as well as the  
9 credible testimony of Eunice Soto who worked at the neighboring kiosk in the Metreon. Moreover,  
10 although Mayra Chiquete adamantly denies ever employing claimant Garcia or anyone else, Ms.  
11 Chiquete lacks credibility as to the critical and fundamental issue of her business operations, and  
12 the existence and nature of her business relationships. Although she claims that she and her  
13 business partner are the only individuals to ever work at the San Francisco Cell Pro kiosks, the  
14 testimony of the claimant, as well as the testimony of Eunice Soto, OLSE staff members, and  
15 even Ms. Chiquete's own witness, Yhlas Yagshiyev, belies such testimony. Ms. Chiquete also  
16 unequivocally denied any involvement with any cell phone business at the Stanford Shopping  
17 Center, which was simply untrue. She co-signed a lease for a cell phone business with her  
18 business partner Steve Saddozai in May 2008, and Mr. Saddozai purportedly ran the Stanford  
19 kiosk himself while also working approximately 12 hours per day at the San Francisco kiosks  
20 between May 2008 and the summer of 2008.

21 3. Based on the foregoing, it is determined that Cell Pro is covered by the San  
22 Francisco Minimum Wage Ordinance (MWO). [Administrative Code Section 12R.4] During the  
23 period at issue – September 22, 2007 through November 8, 2007 – the San Francisco minimum  
24 wage was \$9.14 per hour.

25 4. After a hearing that affords a suspected violator of the MWO due process, and  
26 upon determination that a violation has occurred, the OLSE may order appropriate relief  
27 including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld,  
28 and an administrative penalty in the amount of \$50.00 to each employee whose rights were

1 violated for each day or portion thereof that the violation occurred or continued. [Administrative  
2 Code Section 12R.7(b)] Pursuant to Section 12R.7(b), a violation for unlawfully withholding  
3 wages shall be deemed to continue from the date immediately following the date that the wages  
4 were due and payable to the date preceding the date the wages are paid in full. In this case, the  
5 OLSE seeks a determination as to the amount of penalties owed to Mr. Garcia on the first day the  
6 claimant was underpaid through April 20, 2009, the day of the first hearing.

7 5. Section 12R.7(d) of the MWO provides that in any administrative action brought for  
8 the nonpayment of wages under the MWO, interest shall be awarded on all due and unpaid  
9 wages, at the rate of interest specified in California Civil Code §3289(b). The section further  
10 provides that interest shall accrue from the date the wages were due and payable to the date the  
11 wages are paid in full. California Civil Code §3289(b) provides for interest at the rate of 10% per  
12 annum. In this case, the OLSE seeks a determination as to the amount of interest owed to Mr.  
13 Garcia beginning on the first day he was underpaid (September 30, 2007) through the day before  
14 the first hearing (April 19, 2009).

15 **Issue #1: Did Mayra Chiquete and/or Cell Pro violate the MWO by failing to pay the**  
16 **minimum wage and/or overtime to Claimant, Rodolfo M. Garcia? If so, how much do they**  
**owe Claimant Garcia in back wages, interest, and administrative penalties?**

17 6. The undersigned hearing officer finds that the OLSE submitted sufficient evidence to  
18 establish that claimant Rodolfo Garcia is owed wages in the amount of \$3,254.63 under the MWO  
19 for work performed during the period September 22, 2007 through November 8, 2007. This amount  
20 equals total wages owed in the amount of \$4,382.63 minus \$1,128.00 for the cash payment  
21 received by the claimant on November 8, 2007 ( $\$4,382.63 - \$1,128.00 = \$3,254.63$ ). This  
22 determination is supported by the credible testimony of the claimant. Section 41.1.1 of the Policy  
23 and Interpretations Manual of the Division of Labor Standards Enforcement, states:

24 "It is the employer's responsibility to keep accurate records of the time  
25 that employees work. If the employer fails to maintain accurate time  
26 records, the employee's credible testimony or other credible evidence  
27 concerning his hours worked is sufficient to prove a wage claim. The  
28 burden of proof is then on the employer to show that the hours claimed by  
the employee were not worked. Time records must be kept whether it is  
customary in the area or industry. (*Anderson v. Mt. Clemens Pottery*  
(1946) 328 U.S. 680; 90 L.Ed. 1515; 66 S.Ct. 1187 (rhg. den. 329 U.S.

822)) The leading California case on this issue is *Hernandez v. Mendoza* (1988) 199 Cal. App. 3d 721; 245 Cal.Rptr. 36, which follows the rationale set out in the *Anderson v. Mt. Clemens Pottery* case."

Cell Pro contends that it never employed Mr. Garcia (or anyone else) and it therefore has no payroll records. As stated above, Cell Pro's contention that Mr. Garcia was never an employee is not credible. Under the circumstances, the claimant's credible testimony is sufficient to establish the amount of hours he worked.

7. Pursuant to MWO Section 12R.7(d), simple interest at the rate of 10% per annum may also be awarded to claimant Garcia in the amount of \$484.55 as set forth below:

Pay Period Ending	Wages Owed	DAYS PAST DUE	INTEREST OWED
9/30/07	\$584.96	568	\$91.03
10/15/07	\$1,512.67 (\$1,128.00*) \$384.67	553	\$58.28
10/31/07	\$2,056.50	537	\$302.56
11/15/07	\$228.50	522	\$32.68
		<b>TOTAL</b>	<b>\$484.55</b>

\* The 11/8/07 payment is credited to the 10/15/07 pay period since the employer did not intend to pay the employee for any work performed in September.

8. Based on the facts of this case, the undersigned hearing officer further finds that it is appropriate for the OLSE to order Cell Pro/Mayra Chiquete to pay the maximum amount of penalties in the amount of \$28,400.00 to claimant Garcia, which amount is calculated by multiplying \$50.00 per day for each day that the violation continued, beginning on September 30, 2007 (the first payday the claimant was underpaid) and continuing through April 19, 2009 (the day before the first hearing) (\$50.00 X 568 days for the period 9/30/07 through 4/19/09 = \$28,400.00). This determination is supported by the following factors: (1) the employer was not cooperative with the OLSE in its investigation; (2) the employer denies employing the claimant notwithstanding substantial evidence to the contrary; and (3) the ongoing nature of the violation.

**Issue #2: Did Mayra Chiquete and/or Cell Pro violate the California Labor Code by failing to provide Rodolfo M. Garcia required meal breaks and rest periods? If so, how much do they owe Claimant Garcia in meal and rest break penalties?**

9. The undersigned hearing officer finds that the OLSE submitted sufficient evidence to establish that claimant Garcia was denied rest and meal breaks. This determination is

1 supported by the credible testimony of the claimant. The undersigned hearing officer therefore  
2 finds that the claimant is owed a sum of \$676.36 for missed rest breaks and meal breaks for the  
3 37 shifts he worked during the period September 22, 2007 through November 8, 2007. The sum  
4 of \$676.36 includes a payment of the minimum wage of \$9.14 for two hours per workday for  
5 missed rest breaks (1 hour per day) and meal breaks (1 hour per day) pursuant to IWC Order No.  
6 4-2001 (37 shifts X 2 hrs/shift = 74 hours X \$9.14/hr = \$676.36).

7 **Issue #3: Did Mayra Chiquete and/or Cell pro violate the MWO? If so, how much do they**  
8 **owe the City in administrative penalties?**

9 10. Under the MWO, the OLSE may order a violating employer or person to pay to the  
10 OLSE a sum of not more than \$50.00 per day for each employee as to whom the violation  
11 occurred or continued. [Administrative Code Section 12R.7(b)] In this case, the undersigned  
12 hearing officer has found penalties in the amount of \$28,400.00 may be appropriately assessed  
13 for payment to claimant Garcia based on a penalty of \$50.00 per day beginning the first day the  
14 claimant was underpaid and continuing up to the first day of hearing. Therefore, the maximum  
15 penalty that may be assessed on behalf of the OLSE is also \$28,400.00.

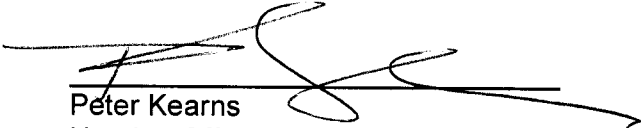
16 11. Under Section 12R.7(b) of the MWO, any penalty assessed on behalf of the OLSE  
17 is intended "to compensate the City for the costs of investigating and remedying the violation."  
18 Accordingly, the undersigned hearing officer finds that the OLSE may appropriately order the  
19 employer in this case to pay an administrative penalty in the amount equal to the OLSE's costs of  
20 investigating and remedying the violation at issue, which amount may not exceed \$28,400.00.  
21 Because no evidence was submitted regarding the actual costs incurred to investigate and  
22 remedy the violation, no determination is made herein regarding the actual costs incurred or the  
23 amount of the penalty to be assessed.

24 **Issue #4: Did Mayra Chiquete and/or Cell Pro fail to keep accurate records and/or provide**  
25 **the OLSE with reasonable access to its records for the relevant period? If so, should**  
26 **Mayra Chiquete and/or Cell Pro be ordered to produce the records requested and how**  
27 **much do they owe in administrative penalties?**

28 12. Before administrative penalties may be assessed for the failure to retain records or  
the failure to allow for the inspection of records, the OLSE is required to follow the administrative

1 guidelines outlined in Sections 12.R18 through 12R.20 of the MWO. According to the guidelines,  
2 the OLSE must first issue a Notice of Violation (NOV) followed by the issuance of an  
3 Administrative Citation for failure to correct the NOV. An employer who wishes to appeal the  
4 issuance of an Administrative Citation may seek an administrative hearing under a hearing  
5 process that is separate from hearing pertaining to wage claims. [Administrative Code Section  
6 12R.21] In this case, the OLSE has not presented any evidence as to whether it has complied  
7 with the requisite administrative process to seek penalties based on Cell Pro's failure to retain or  
8 allow for inspection of payroll records. Accordingly, no determination is made herein regarding the  
9 assessment of administrative penalties based on any failure by Cell Pro to maintain payroll  
10 records or to allow the OLSE to inspect payroll records.

11  
12 Dated: May 18, 2009

  
Peter Kearns  
Hearing Officer

3 **TABLE 1**  
4 **WITNESS LIST – OLSE and CELL PRO**

5

HEARING DATE	NAME OF WITNESS	IDENTITY OF WITNESS
6 April 20, 2009	Yhlas Yagshiyev	Cell Pro Witness: Former employee of MC Helicopters (retail business located on ground floor of in Westfield Center)
7 April 20, 2009	Ernest (Bob) Cunanan	Cell Pro Witness: Employee of Bristol Farms (retail business located on ground floor of in Westfield Center)
8 April 20, 2009	Rofolfo Garcia	Claimant
9 April 20, 2009	Eunice Soto	OLSE Witness: Former employee of NYS Collections in Metreon (sunglass kiosk located next to Cell Pro)
10 April 20 & 21, 2009	Robin Ho	OLSE Compliance Officer
11 April 20 & 21, 2009	Laurence Griffin	OLSE Compliance Officer
12 April 21, 2009	Shikeb (Steve) Saddozai	Partner of Cell Pro owner Mayra Chiquete
13 April 21, 2009	Mayra (Gina) Chiquete	Cell Pro owner
14 April 21, 2009	Donna Levitt	OLSE Manager
15 April 21, 2009	Josh Pastreich	OLSE Compliance Officer

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