

Uncle Sam Pays Activists to Hit “ROC” Bottom

An agitation group wages war on restaurant owners

By Julia Tavlas

Summary: *Your tax dollars are subsidizing left-wing activists that harass restaurants that haven't been unionized. And as part of that scam, the union-backed forces have opened their own restaurant, where they mistreat workers and skimp on hygiene.*

Question: If something looks like a duck and quacks like a duck, is it a duck? A reasonable person would conclude yes, even if that's not what it was called. Similarly, if an organization organizes like a union and agitates like a union, is it a union?

This is the conundrum surrounding the Restaurant Opportunities Center United, a hospitality workers “advocacy” group, which operates “workers centers” in nine U.S. cities, including New York, D.C., and Chicago. ROC-United sprang from ROC-NY. ROC-NY boasts that it exists to wage “justice campaigns” and provide “job training and placement,” and has even “opened its own cooperative restaurant,” COLORS, in New York City.

All permutations of the ROC organization seek to create a unionized restaurant sector. It was instigated by a notorious labor union; it stages walk-outs and employer intimidation campaigns; and it extracts wage concessions from employers that would be the envy of



Community organizer Saru Jayaraman (L) and her baby daughter Lina with former Communist Party USA leader Angela Davis. The occasion was an awards ceremony at Kalamazoo College on May 11, 2013. (photo: Jayaraman's Twitter account at @SaruJayaraman)

any big labor boss. And yet ROC is not recognized as a labor union by the United States government, which means not only is ROC exempt from the financial and legal obligations which bind a typical labor organization, but its activities are actually subsidized by generous grants from state and federal agencies.

This is the story of how to quack and swim like a duck, but get Uncle Sam to pet you like a puppy.

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‘Ethical Eating’

People feel guilty about what they eat these days for lots of reasons: whether the food is processed, genetically modified, irradiated, locally produced, organically grown, etc. Now we have another reason to fret over our fritters—labor practices.

In 2013 a group called the Restaurant Opportunity Centers United (ROC-United) issued the second annual edition of its National Diner’s Guide to Ethical Eating, which, as the group claims, “provides information on the wage, benefits, and promotion practices of the 150 most popular restaurants in America.” The idea is to steer labor-minded customers to establishments ROC determines are ethically sound, while simultaneously shaming the owners and customers of so-called “un-ethical” eateries.

The Guide to Ethical Eating is distributed nationally and even available as a smartphone app, developed in conjunction with University of Miami professor Clay Ewing.

Both the Guide and the ROC organization itself focus heavily on the labor practices of restaurants. One might expect such an

organization to be a labor union, but ROC claims it is NOT a labor union. So what is a Restaurant Opportunity Center anyway?

Before ROC-United, there was ROC-NY. ROC-NY was created with help from the Hotel Employees and Restaurant Employees International Union (HERE), a hospitality workers organization originally formed in 1891. (See <http://www.dollarsandsense.org/archives/2004/0104labotz.html>.) HERE famously succeeded in organizing the staff of Yale University in 1984.

In the immediate aftermath of 9/11, HERE Local 100 set up a temporary relief center to support the grieving and displaced workers of Windows on the World, the famous restaurant at the top of the World Trade Center, and their families. Eventually, HERE urged Saru Jayaraman, a Yale-trained immigration attorney, and Fekkak Mamdouh, who had been a waiter at the restaurant, to create something more permanent and more ambitious. ROC-NY was born, dedicated to, according to the group’s website, improving the “wages and working conditions for restaurant workers” everywhere.

ROC-NY was so successful that in 2008 Jayaraman and Mamdouh co-founded ROC-United, an organization of national reach. In fact, ROC-United brags that it is “the only national organization in the United States dedicated exclusively to the needs of restaurant workers,” and claims to have 10,000 members in 26 locations, scattered throughout D.C., New York, Chicago, Miami, New Orleans, Philadelphia, Houston, Los Angeles, and Michigan. On its website, ROC-United stakes out a broad mandate in a mission statement littered with phrases and aspirations typical of a labor union:

Through participatory research and policy work, employer engagement, workplace justice campaigns, membership and leadership development, and more, ROC-United has become a powerful

national vehicle for restaurant workers to lift their collective voices on issues affecting all low-wage workers, including the minimum wage, paid sick days, compliance with basic employment standards, and lack of health care.

ROC steadfastly denies that it is a union even though, as the *Village Voice* once noted, “it often employs the tactics of bargaining, protesting, and picketing.” ROC-United claims 501(c)(3) public charity tax status under the GuideStar.org classification of “category R20 (Civil Rights, Advocacy for Specific Groups).” And there’s a reason why it is classified as such and not as a union. As the website ROCexposed.com explains:

While labor union activities are highly regulated under the National Labor Relations Act (NLRA) and other labor laws, the activities of so-called “worker centers” remain largely unregulated. By operating as a worker center, ROC can claim 501(c)(3) charitable organization status, which allows ROC to pay no taxes and to raise tax deductible contributions from foundations. But more importantly, this also allows ROC to flagrantly skirt federal labor laws and union disclosure requirements.

Vital Statistics, Finances

ROC, whose formal name is Restaurant Opportunities Center (ROC) United Inc., registered as a nonprofit corporation on March 18, 2008, according to New York State’s corporations division. According to its most recent publicly available tax return, it received a total of \$6,422,831 in gifts, grants, contributions, and membership fees from 2008 through 2011. Of that total, \$2,721,744 was received in 2011. ROC spent \$2,582,561 in 2011 and had net assets of \$907,411 at the end of that year.

A notable member of the ROC board is community organizer Rinku Sen, who is also executive director of the far-left Applied

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Research Center. (For more on ARC, see the March 2013 *Foundation Watch*.)

ROC and its affiliated organizations are heavily funded by left-wing philanthropies. Institutional donors include Tides Foundation (\$58,630 since 2009), Tides Center (\$25,000 since 2009), Woods Fund of Chicago (\$115,000 since 2009), Robin Hood Foundation (\$379,021 since 2008), Ford Foundation (\$1,450,000 since 2008), W.K. Kellogg Foundation (\$967,500 since 2004), Rockefeller Foundation (\$285,000 since 2004), Rockefeller Philanthropy Advisors Inc. (\$90,000 since 2006), Rockefeller Brothers Fund Inc. (\$50,000 since 2011), Robert Wood Johnson Foundation (\$300,000 to ROC-New York City since 2007), Surdna Foundation (\$185,000 since 2010), Nathan Cummings Foundation (\$150,000 since 2005), Local Initiatives Support Corp. (\$45,000 since 2011), Discount Foundation (\$85,000 since 2005), Oxfam-America Inc. (\$40,000 since 2010), New York Foundation (\$195,550 since 2004), and Funding Exchange Inc. (\$17,500 since 2009).

Caution—ROC Slide Ahead

ROC exposed is funded and maintained by a coalition of restaurant owners. Its spokeswoman, Alison Harden, told the *Washington Post* that the individual members prefer to remain anonymous, “since ROC has a history of unjustified and damaging protests of restaurants we will not be naming our members for fear of reprisal.”

And who can blame them? ROC-led “justice campaigns” have indeed wreaked havoc on Manhattan’s world famous restaurant scene. In 2005 ROC targeted New York’s Redeye Grill. Its owner, Shelly Fireman of the Fireman Hospitality Group, described the scene to the *New York Post* (Feb. 4, 2007): “In November ’05, ROC stormed our restaurant ... in the middle of dinner service, armed with loudspeakers, noisemakers and cameras.”

The protesters handed Fireman a letter accusing the owners of Redeye Grill of subjecting its “employees to wage and hour violations, sexual abuse, verbal abuse and racial discrimination.” ROC kindly offered a way for Fireman to purge himself of these alleged sins. According to Fireman, ROC’s “letter demanded we send them \$3 million and threatened that if we refused to pay, ROC would launch pickets, media attacks and lawsuits against us.”

It was a shakedown tactic that had already borne fruit. That same year, ROC had descended on Daniel, a four-star restaurant, during the dinner rush, disrupting its operations with accusations of discrimination, and threatening the owners with a \$1.2 million lawsuit. (*Village Voice*, Aug. 14, 2007) The owners later settled.

The Smith & Wollensky Restaurant Group was similarly targeted and similarly settled. However, Smith & Wollensky took pains to note that it was “settling the dispute to avoid the time, trouble and extraordinary expense of further litigation,” and not because it had done anything wrong. Of course, ROC, like all shakedown organizations, counts on such pragmatic, dollars-and-cents calculations on the part of business owners—that’s how nuisance lawsuits work.

Jayaraman is quite explicit in her intent to intimidate the industry into unionizing. The website DollarandSense.org—“produced by a collective” of members of the Union for Radical Political Economics—quotes her on ROC’s strategy to harm non-unionized restaurants that out-compete unionized establishments:

Working with HERE 100, we identified the major conglomerate restaurant owners in the city. We’ve chosen one corporate empire that the union might be able to organize in a couple of years. The idea is to go after conglomerates that are in competition with restaurants

that are already union-organized. We want the industry to feel threatened by the union or by us.

Mission accomplished on both counts.

Money Under the ROC

And who was funding these assaults on restaurant owners? The taxpayer, to a large extent. According to publicly available financial disclosure documents, in 2007 ROC-NY claimed total revenues of \$1,425,406, expenses of \$1,446,957, and a net loss of \$21,551. That year the group received government grants totaling over \$181,000. In other words, without you and me keeping them afloat, the agitators at ROC-NY would have been hard-pressed to maintain their concerted attacks against Manhattan’s restaurateurs.

Nothing has changed. In 2011, the most recent year for which data is available, ROC-NY claimed total revenues of \$980,515, expenses of \$1,238,468, for a net loss of \$257,953. And though ROC continues to operate at a loss, the government still sees fit to subsidize its operations and has actually increased its funding. In 2011 government grants buoyed ROC’s revenues to the tune of \$189,642, once again insuring that their justice campaigns will bedevil restaurateurs for the foreseeable future. (For more information on which government agencies are dispensing this largesse, stay tuned.)

A significant amount of the group’s revenues fund its extensive legal battles with restaurant owners. As ROC-NY’s website states, “In the last nine years, we have won nine campaigns against abusive restaurants, totaling over \$4.9 million in discrimination and unpaid wages.” How’s that for irony? These restaurant owners pay taxes, which in part then help fund the activities of the very group that is threatening their business and jeopardizing their ability to pay those very taxes.

But before the taxpayer there was the union man. As the *New York Times* reported (Feb. 17, 2012), a certain Bruce Herman facilitated

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ROC's first grant in the immediate aftermath of the 9/11 attacks. (The precise amount and nature of Herman's initial gift is not entirely clear from the public records. My inquiries to ROC headquarters in New York City regarding Herman's association with the organization were met with stony silence.) But according to the group's website, Herman then "continued to provide funding for ROC through the first year" of its existence.

Prior to funding ROC, Herman had a long history in labor relations and management, serving as head of the union-created Garment Industry Development Corp. and as Deputy Commissioner of Labor for New York State. Herman had also been executive director of the Working for America Institute, an arm of the powerful AFL-CIO labor federation.

Herman would also prove to be instrumental in securing funding for ROC-NY's flagship venture, a worker-owned restaurant that would prove a public relations disaster for everyone involved.

The COLOR of Money

On previous trips to Southern Europe, Herman had become enticed by the Italian idea of worker-owned restaurants. Eventually, Herman and ROC executives were able to secure a \$500,000 loan from Italian investors to launch their own restaurant *cum* social experiment, COLORS, in New York in 2006. COLORS claims to be owned and operated by its workers and dedicated to "local farming, ethical employee practices, excellent service" and "Just. Good. Food." Since then ROC has opened another restaurant in Detroit.

Having cast themselves as paragons of restaurant virtue, ROC opened itself up to even greater scrutiny than would be afforded an average eatery. Sadly, COLORS has been cited a number of times for disgusting violations by New York City health inspectors. They found evidence of "mice or live mice present in facility's food

and/or non food areas," as well as "food contact surface not properly washed, rinsed and sanitized," and "hand washing facility not provided in or near food preparation area and toilette room."

The investigation by New York authorities did not go unnoticed in Washington, D.C. On July 2, 2012, Rep. Darrell Issa (R-Calif.), chairman of the House Oversight and Government Reform Committee, sent a public letter to then-Labor Secretary Hilda Solis. Issa wanted to know why the Labor Department was giving public money to ROC:

Despite ROC's own health, safety, and worker relations woes, DOL has supported ROC and awarded the group federal funds to promote worker safety and awareness of their rights as employees. (<http://oversight.house.gov/wp-content/uploads/2012/07/2012-07-02-DEI-to-Solis-re-federal-funding-of-ROC.pdf>.)

Indeed the DOL awarded ROC a \$275,000 grant under the Susan Harwood program, which according to the Department focuses on providing:

ROC-United affiliates and others with information, guidance, and access to training resources that will help them 1) protect the health and safety of workers, particularly by reducing and preventing exposure to ergonomic; slip, trip and fall; and cut and burn hazards, and addressing issues related to small businesses and youth workers, and 2) understand the rights of workers and the responsibilities of employers under the Occupational Safety and Health Act (OSH Act).

It is no surprise that ROC needed the Susan Harwood grant. A few years earlier Behzad Pasdar, a former member of the restaurant's board of directors, expressed the dissatisfaction of many COLORS workers when he

called the restaurant "one of the most abusive in the city." Pasdar and six others had been promised part-ownership of COLORS if they worked 100 hours for the restaurant without compensation, what Jayaraman called "sweat equity." When ownership failed to materialize, even after the "sweat equity" hours were continually increased, the group of disenchanted COLORS workers filed suit.

The litigants who had been promised ownership had been astonished to learn that stock would first be split 50/50 between the non-profit and an Italian catering company, with only partial ownership offered to the co-op members at some vague future date. In the meantime, they would have to agree to work for salary only and to participate in various radical left-wing causes, even protesting the Iraq war. (*New York Post*, Nov. 22, 2007)

When the plaintiffs protested this rip-off, including a contract offered by Jayaraman specifying the new requirements, they were forced out. "She threatened that if we don't sign the contract, we could be kicked out of our co-op," Pasdar said. "We were forced to sign, without translators [for non-English speaking members], without lawyers, without members even being allowed to talk to each other."

So they sued, claiming wrongful dismissal and demanding back pay for all their hours of "sweat equity." Unfortunately for them, the courts didn't see it their way. On May 1, 2009, the New York District Court came down on the side of COLORS, which argued that the plaintiffs "have no claims against them" under the Fair Labor Standards Act because ROC-NY was not an "enterprise engaged in commerce or in the production of goods for commerce" at any time relevant to this action, and because plaintiffs were not "employees" of ROC-NY."

Just. Good. Irony.

Programs for the Needy (and Gullible)

If Pasdar and his fellow plaintiffs balked at participating in ROC's various left-wing causes as a condition of employment, other restaurant workers are lured into ROC's activist army with a classic bait-and-switch: they are offered free job training classes through the Colors Hospitality Opportunities for Workers (CHOW) Institute, including courses in pastry making, hostessing, and mixology.

Workers interested in joining the restaurant business are invited to partake in these training programs, but they must first become a member of ROC-NY and attend an orientation. Next, workers must attend team meetings, but only if they are invited to do so. Following this, candidates are interviewed by case managers who assess their interest and "eligibility" (whatever that means).

If they are at last ushered into the upper echelons of the chosen, they find strings attached to their "free" training. According to ROC-NY's website "we strongly encourage our members to become deeply involved in our organization by joining our many committees and through participation in other activities."

Conclusion

So we know that the Department of Labor has lavished attention upon ROC. But another arm of the federal government may wish to follow suit: the Internal Revenue Service may be interested in ROC's extensive political activity, activity that in theory should be restricted to the group's lawful charitable purposes.

According to the IRS, a tax-exempt organization "may not be an action organization, i.e., it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates." And yet ROC is heavily involved in pushing the Fair Minimum Wage Act (FMWA). The FMWA would raise the minimum wage

from \$7.25 an hour to \$10.10 and raise the minimum wage for tipped workers for the first time in over two decades from \$2.13 an hour to 70 percent of the proposed regular minimum wage.

The IRS also states:

An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.

Any tax-exempt organization that does too much of this "risks loss of tax-exempt status."

But that is exactly what ROC is doing. On ROC-NY's website the group proclaims that "indexing the federal minimum wage is absolutely necessary" and urges people to tell their members of Congress that they "support the FMWA and indexing the federal minimum wage." ROC even helpfully provides a petition for people to sign as well as sample tweets tailor-made for targeting members of Congress.

Examples include:

@[YOUR REP] Federal campaign donations are indexed for inflation, why isn't the minimum wage? Support the #FMWA! #IndexTheWage #Raise213

@[YOUR REP] 18 states have higher min wage than fed, 10 states r linked 2 consumer price index. Support the #FMWA! #IndexTheWage #Raise213

@[YOUR REP] Cost of goods keeps going up, our incomes stay the same. Support the #FMWA 2 #RaiseTheWage 4 30 million Americans! #IndexTheWage

So let's summarize: ROC is a group that receives government money to blackmail private businesses. It agitates for improved labor conditions for others, while treating its own workers as "sweat equity." It sees fit to tell others what and how to serve their food, while failing in its own restaurant to provide even basic standards of sanitation and health.

Jayaraman and Co. should crawl back under the ROC whence they came.

Julia Tavlas is a journalist and author whose work has appeared in Forbes and Breitbart.com, among others. This is her first contribution to Organization Trends.

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Briefly Noted

President **Obama's** Alinskyite street army, **Organizing for Action** is falling far short of fundraising targets. OfA has been forced to cut in half its first-year fundraising goal of \$50 million. According to the *Washington Post*, the decision “came after the group reversed course and said it would not accept corporate funds.” OfA used to be called Organizing for America when it was a project of the Democratic National Committee. After Obama's re-election, it took its current name and incorporated as a 501(c)(4) nonprofit.

It isn't often that a leftist thought leader calls out her comrades for making common cause with Islamists out of hatred of the U.S., but that's exactly what **Meredith Tax** does in her new book. In *Double Bind: The Muslim Right, the Anglo-American Left, and Universal Human Rights*, published recently by the London-based **Centre for Secular Space**, the American activist writes that over the last decade some left-wing groups have allied with Muslim organizations “that stand for religious discrimination, advocate death for those they consider apostates, oppose gay rights, subordinate women, and seek to impose their views on others through violence.” She reminds readers that “wherever Islamists have gained power, they have wiped out the left—see Algeria, Indonesia, Iran, Sudan, and, of course, Afghanistan.” Tax criticizes **Michael Ratner**, the anti-American Marxist who serves as president of the New York-based **Center for Constitutional Rights**, for blaming the existence of the terrorist detention camp in Guantanamo on “Islamophobia.” Islamists scare off critics by wielding this word the same way community organizers discourage criticism by calling their detractors racist. The term “does more to confuse the issues than clarify them,” Tax writes, and is used in “efforts to criminalize free expression and dissent.”

Catherine Engelbrecht, president of Houston-based **True the Vote**, a good government group, praised a recent Supreme Court ruling that struck down part of the Voting Rights Act that gave left-wing groups a distinct advantage in federal elections. The high court recognized that the law's anti-discrimination provisions, which gave federal bureaucrats a veto over changes in state election laws, may have been needed when the law was enacted in 1965, but no longer. For decades “ideological bureaucrats have used this law to exact a form of racial justice on their presumed enemies while ignoring the country's demands for basic election integrity measures,” said Engelbrecht. “Thankfully, the Court stripped Washington of a power that was only being used as a weapon today.” Election lawyer **J. Christian Adams** described the court opinion, which clears the way for enforcement of much-needed state-level voter ID laws, as “one of the most important decisions in decades.”

Capital Research Center's valuable work in exposing **ACORN** is acknowledged in investigative journalist **James O'Keefe's** new book, *Breakthrough: Our Guerrilla War to Expose Fraud and Save Democracy*. O'Keefe is founder of **Project Veritas**, which describes its mission as “investigat[ing] and expos[ing] corruption, dishonesty, self-dealing, waste, fraud, and other misconduct in both public and private institutions in order to achieve a more ethical and transparent society.” O'Keefe carried out the 2009 undercover video operation that uncovered corruption and criminality at ACORN—which forced the group to disband—with the help of **Hannah Giles**, who later founded another good-government group, the **American Phoenix Foundation**.