

Commissioner of the New York State Labor Department

Wage Board Hearing May 15, 2009

New York Department of Labor

Harriman, N.Y. 12240

My name is Ron Duckstein. I live in Yorktown, New York. I have lived in New York State my entire life. I have worked in the restaurant business since 1974. I started as a dishwasher at the Jones Beach Marine Theatre at a rate of \$2.25 an hour. I have held positions of general manager, director of operations and regional vice president. I currently have a Joint Venture Partnership with Outback Steakhouse. I have ownership in five Outbacks in New York State, eight in New Jersey and two in Connecticut.

The restaurant industry has always been one of the most profit challenged sectors in the country. Recent pressures from commodities, utilities, wage rates, even credit card discounts and of course the state of the economy has eroded bottom lines. In the past we reluctantly passed on a portion of increased costs to our customers through price increases. It always resulted in decreased traffic. Our customers are extremely price sensitive due to economic conditions. Price increases are no longer an option. None the less, in June we are once again reprinting our menus to decrease some of our prices hoping to increase customer counts. Many of our competitors are doing the same or advertising discounted deals. This all comes at a cost in an industry already operating on razor thin margins.

Increasing the minimum wage has not placed a great deal of pressure on full service restaurants. Our non tipped employees earn substantially more than the minimum wage. The average hourly wage for a dishwasher in my company is \$9.50 an hour not because of a mandate but because the market dictates such a rate. Increasing the tipped wage rate drastically affects our profitability. My restaurants use 2500 to 4000 tipped employee hours per month depending on sales volume. The increase from \$2.13 an hour, the Federal tipped wage rate, to the current New York state rate of \$4.60 an hour has cost our restaurants \$6,500 to \$10,000 a month. There are Outback Steakhouse restaurants in New York State which do not have a profit of \$10,000 per month.

Although the increased tipped wage was intended to protect the "most vulnerable workers", the truth is very few tipped wage workers actually realized any of the increase. Most tipped employees (waiters and waitresses) receive a zero balance on their weekly checks due to taxes and social security on the tips they claim, but the employer has to pay an increase on the wage and taxes – no real benefit to the tipped employee, but a large burden to the employer. The Employment Policies Institute in Washington D.C. found that New York servers with their tips earned an average of \$14.67 an hour.

The increased tipped wage did encourage operators to improve efficiencies in service. We employ less servers and reduced their hours. We incorporated technology to maintain the level of service with less employees (ie. "handhelds" for placing orders allowing servers to handle more tables, utilizing food runners at non-tipped rates to reduce the number of servers). We are currently looking at server

assistants paid a non-tipped rate to reduce the number of servers as well. Increasing the tipped wage not only effects our business negatively it also hurts those it was intended to protect. It also puts pressure on our Back of House non-tipped employees wages to negate these increases. We end up paying them less though they already make less than tipped employees. It is a vicious cycle.

We are a challenged business. It is a business providing work for non-skilled employees entering the work force. It is an industry which provides incredible growth opportunities for these unskilled workers. The financial challenges we face jeopardize these opportunities.

New York is a great economic state. We have incredible restaurants with incredible traditions. Restaurants are very competitive battling for customers. As competitive as we are we talk and socialize with each other. It is a close community. We have all witnessed neighborhood restaurants closing. There will be more. The restaurant industry needs some help. We are not looking for bail outs or hand outs. We roll up our sleeves and work hard. We reward those who work hard with us. Our goal for our employees (Outbackers) is to be a Great Place to Work, have Fun, and make Money.

We are asking to not increase the tipped wage rate. We are actually asking to reduce the tipped wage rate back to the federal tipped wage rate of \$2.13 an hour. You will create jobs!