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October 1, 2021

Via Electronic Submission

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Re: **WTMG, Inc., dba JaniTek Cleaning Solutions**
Notice of Labor Code Violations pursuant to Labor Code § 2699.3(a)(1)

Dear Sir or Madam:

This letter shall constitute the required written notification under Labor Code § 2699.3(a)(1) that our client, Ms. Maria Fernandez, alleges that her former employer, WTMG, Inc., dba JaniTek Cleaning Solutions (“JaniTek”), has violated various provisions of the California Labor Code.

Specifically, Ms. Fernandez contends that JaniTek was engaged in the following unlawful employment practices:

1. Failure to pay Ms. Fernandez and other aggrieved employees all minimum and overtime wages owed to them in violation of California Labor Code §§ 510, 1194, and 1198. Ms. Fernandez was employed by JaniTek as a non-exempt, hourly-paid laborer from approximately June 15, 2001 to approximately September 7, 2021. Ms. Fernandez’s primary job duties consisted of cleaning office facilities, such as offices, restrooms, and conference rooms.

Ms. Fernandez and other aggrieved non-exempt employees were not paid correctly for all of their regular and/or overtime hours because of JaniTek’s unlawful policies and practices. JaniTek had a policy and practice of paying Ms. Fernandez and other aggrieved employees for fewer hours than they actually worked, in particular when they worked overtime or double time hours. Ms. Fernandez and other aggrieved employees routinely worked more than 8 hours per day and/or more than 40 hours per week, and sometimes worked more than 12 hours per day. JaniTek frequently did not pay employees for all of their overtime hours and/or double time hours. Further, JaniTek did not correct the problem when employees complained. For example, Ms. Fernandez once complained to

her supervisor that she was only paid for 80 hours in a pay period even though she had worked approximately 85 hours. Another time, Ms. Fernandez told her supervisor that she worked a shift of approximately 11 hours, but was only paid for 8 hours. On both occasions, the supervisor responded with words to the effect that Ms. Fernandez was paid for all of the hours on her time card.

JaniTek did not maintain accurate records of employees' work time. JaniTek had a time system that was capable of recording employees' time to the exact minute. However, JaniTek sometimes rounded employees' time so that the time records showed, for example, exactly 8 hours of work time and a meal break of exactly 30 minutes. This was done even though employees worked longer than 8 hours and/or took a meal break of less than 30 minutes.

2. Failure to provide Ms. Fernandez and other aggrieved employees with compliant meal and rest breaks or pay premium compensation in lieu thereof, in violation of California Labor Code §§ 226.7 and 512. JaniTek failed to provide employees with an uninterrupted duty-free meal break of at least 30 minutes for every 5 hours of work. JaniTek gave employees a heavy workload and did not provide sufficient staffing to allow employees to take compliant meal breaks. Because of the heavy workload and the pressure to avoid working overtime that would likely end up being unpaid, employees routinely missed meal breaks, had short meal breaks of less than 30 minutes, or had their meal breaks interrupted by work. Employees also routinely had to take late meal breaks (after the start of the fifth hour of work). The jobs had to be completed on time so the facilities were clean and ready for use by JaniTek's customers.

Similarly, Ms. Fernandez and other aggrieved employees were unable to take rest breaks because of the heavy workload and the need to complete their job without working overtime hours that would likely end up being unpaid.

In addition, JaniTek's written meal break policy does not provide that meal breaks must begin by the start of the fifth hour of work, nor does it provide for a second meal break on shifts over 10 hours. JaniTek maintained a written rest break policy that did not provide for a rest break until employees worked over 3.5 hours. California law requires a rest break to be provided on shifts of 3.5 hours.

JaniTek failed to pay premium wages when compliant meal and rest breaks were not provided.

3. Failure to timely pay Ms. Fernandez and other aggrieved employees all wages owed at the time of termination or resignation, in violation of California Labor Code §§ 201-203. JaniTek failed to pay employees the unpaid regular and overtime wages and meal and rest break premium wages described herein upon the separation of their employment.

4. Failure to provide Ms. Fernandez and other aggrieved employees with accurate wage statements, in violation of California Labor Code § 226. The wage statements provided by JaniTek fail to accurately reflect employees' hours worked and applicable hourly rates as a result of the failure to pay regular and overtime wages and meal and rest break premium wages as described herein.
5. Failure to pay Ms. Fernandez and other aggrieved employees in a timely manner during their employment, in violation of California Labor Code § 204. Employees were not paid within the time periods prescribed by Labor Code § 204 as a result of JaniTek's failure to pay wages as set forth above in paragraphs 1-2.

Further, JaniTek failed to timely pay employees for the hours recorded on their timesheets. For example, in the pay period from July 16, 2021 to July 31, 2021, Ms. Fernandez worked approximately 108.12 hours, according to her time records, but was only paid for 76.69 hours, resulting in approximately 31.43 unpaid hours. In the following pay period, 15.50 of these hours were paid. The other 15.93 hours were not paid until the end of Ms. Fernandez' employment. In the pay period from August 1, 2021 to August 15, 2021, Ms. Fernandez worked approximately 51.76 hours according to her time records, but was only paid for 43.76 hours (a difference of 8 hours). In the pay period from August 16, 2021 to August 31, 2021, Ms. Fernandez worked 48 hours according to her time records, but was only paid for 40 hours. The unpaid hours were not paid until the end of Ms. Fernandez' employment, approximately 1 to 6 weeks after the hours were worked.

6. Violation of California Labor Code §§ 558 and 558.1, as a consequence of the violations described herein.

Labor Code § 558 provides that an employer or person acting on behalf of an employer who violates (or causes to be violated) a provision of Labor Code §§ 500 through 558, or a provision of the IWC Wage Orders regarding hours and days of work, is liable for civil penalties of \$50 to \$100 per pay period to each underpaid employee, in addition to other civil penalties provided for by law.

Labor Code § 558.1 provides that an employer or person acting on behalf of an employer who violates (or causes to be violated) a provision of Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802 may be held liable as the employer for such violation.

As set forth herein, CCS has violated California Labor Code §§ 203, 226, 226.7, 510, 512, and 1194, and IWC Wage Order 5-2001, and is thus liable for penalties under Labor Code § 558.

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Please advise within the required time period whether or not the Labor and Workforce Development Agency intends to investigate these alleged violations. If no such notice is received within 65 calendar days of the date of this letter, Ms. Fernandez will proceed with a civil action for penalties pursuant to Labor Code § 2699.

Thank you for your prompt attention to this request.

Sincerely Yours,



Ronald H. Bae

cc: WTMG, Inc., d.b.a JaniTek Cleaning Solutions
Attn: Human Resources Dept.
3225 Tomahawk Drive
Stockton, CA 95205

Via Certified Mail