The Honorable Johnny Isakson
United States Senator
131 Russell Senate Office Building
Washington, DC 20510

February 4, 2015

Dear Senator Isakson:

We are writing on behalf of the Asian American Hotel Owners Association (AAHOA). As you may know, AAHOA is based in Atlanta, Georgia, and represents more than 14,000 small business owners nationwide. Our members own more than 40% of all hotels in the United States and employ nearly 600,000 workers, accounting for over $9.4 billion in annual payroll. As small business owners, our members consistently contribute to the economy through tourism, real estate development, job creation and community investment.

We understand that the Senate Committee on Health, Education, Labor and Pensions will hold a hearing entitled, "Who's the Boss? The 'Joint Employer' Standard and Business Ownership," this week. We strongly urge you and your colleagues to work to preserve the current definition of joint employer status, as any alteration in the current regime would adversely impact small businesses across the country.

Nearly seventy percent of the over two million guest rooms owned by AAHOA members are located in franchised properties. The franchise business model has been essential in creating entrepreneurship opportunities for our members, who are nearly all first and second generation Americans. We fear the prospects for business ownership would be significantly limited if franchising were no longer available to AAHOA members.

The franchising model in the lodging industry can provide considerable benefits to franchisees and in many markets, affiliating with a nationally recognized brand can be the difference in determining whether or not a hotel can succeed. Moreover, the franchising model succeeds for hoteliers because of the distinct responsibilities of franchisees and franchisors.

Hotelier-franchisees are responsible for identifying a suitable market, applying for a franchise license, securing financing, purchasing land, acquiring insurance, establishing agreements with contractors, passing health and safety inspections, setting prices, determining staffing needs, understanding local laws and regulations, undertaking all of the financial risk, and running the daily operations of the business.

Conversely, hotel franchisors' responsibilities include granting franchise licenses, providing guidelines for construction, interior and exterior design, conducting national marketing campaigns, developing training for management, furnishing software and services such as point of sales systems and reservation portals, and generally offering guidance to ensure consistency of brand quality.

Typically, franchisors also charge a fee of upwards of $50,000 for use of a brand name, or "flag," as it is known in the industry, and monthly royalties of around 15% of the gross revenues of the business. The net profits earned by the business belong to the hotel owner.

As hoteliers, we have come to depend on the franchise model as the most advantageous means to small business ownership. Consequently, we are deeply concerned that the NLRB's efforts to expand the definition of joint employer status will transfer control of small businesses from independent hotel owners and operators to large corporations. This loss of control will have devastating effects on employers, employees and the lodging industry. This expanded definition intimated by the NLRB would compel franchisors to take an active role in staffing decisions due to the potential for liability. Franchisees, including the majority of AAHOA members, would lose independence in decision making and may effectively become employees of the franchisor.

Currently, it is the hotel owner and operator who controls the day-to-day operations of the property, including staffing decisions. Hoteliers exclusively establish working conditions, staffing needs, wages, promotions, benefits, schedules, evaluation metrics, raises and disciplinary procedures. Further, once the license agreement is signed, interactions with franchisors are fairly limited. Discussions usually involve the status of maintenance and renovations, compliance with laws and regulations, and availability of technology that can improve efficiency – generally, the topics focus on how to ensure a hotel property can continue to maintain the standards of quality that customers come to expect from a specific brand. Franchisors do not provide input on staffing decisions and certainly do not comment on specific employees.

The new direction for joint employer status suggested by the NLRB, attributing liability for franchisees' employment decisions onto franchisors, will cause franchisors to exert control over the operations of the respective hotel properties in an effort to prevent legal action. Franchisors would begin to dictate policies on staffing decisions and hoteliers would be compelled to comply. Once this occurs, hoteliers would become the de facto employee of the franchisor, because they would be forced to follow someone else's directives.

A new, essentially coerced partnership arrangement between franchisees and franchisors that would arise based on a new joint employer standard would devastate the industry, because the interests of both parties are particularly distinct. As franchisees, our interests are to ensure our individual properties are as successful as possible. That means growing, maintaining and developing a dedicated workforce. As hotel operators, intimately involved in the daily functions of the hotel, we know our staff members personally and understand their unique importance to the business. It is important to remember, most franchisors are public companies with different goals and motives than small business owners. As a result, franchisors value expenditures and investments differently than we do and our employees and staffs may suffer if new standards impose a new management structure.

For example, under a new joint employer regime, there are easily conceivable circumstances where a disagreement on employment decisions exist between the franchisee and franchisor. At such an impasse, the franchisee may have to capitulate to the franchisor's judgment. Franchisors may also insist on reviewing or approving promotion criteria, wage increases, benefits, schedules and other staffing decisions. It would be extremely harmful to the business for a third party with a limited understanding of the culture of the specific property to encroach on the employer-employee relationship. The franchisor and franchisee relationship is certainly not without its frictions as a result of some conflicting interests, and oversight of this nature would only add strain to the relationship.

A result of a more intrusive relationship caused by a new joint employer standard, hoteliers would lose the equity they have built in their businesses and for no other reason than the extreme decision of an unelected bureaucrat in Washington, DC.

Further, an added role for franchisors may also cause them to raise franchising fees and royalties, or demand to participate in the net profits of the hotel. These outcomes are unsustainable for the lodging industry and frankly threaten to undo the entrepreneurial success of AAHOA members. Ultimately, if a new joint employer standard is adopted, AAHOA members would be discouraged to grow their businesses, create new employees or invest in their local communities.

Expanding joint employer status would collapse the franchising model and extinguish aspirations of business ownership. Consequently, many good American jobs would be lost, or never created, because entrepreneurs do not want to simply manage some else's hotel.

We strongly urge you to consider the tremendously adverse impacts on franchisees and workers when deliberating policy proposals associated with the definition of a "joint employer."

Respectfully,

Pratik Patel	Jimmy Patel	Bruce Patel	Bhavesh Patel	Chip Rogers
Chairman	*Vice Chairman*	*Treasurer*	*Secretary*	*Interim President*