

U.S. fast food caught in immigration crosshairs

By Lisa Baertlein, Mary Milliken and Ed Stoddard Lisa Baertlein, Mary Milliken And Ed Stoddard

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LOS ANGELES/DALLAS (Reuters) – Chipotle Mexican Grill has a lot going for it -- an upscale burrito concept, a hip and eco-friendly image, expansion plans galore and a 500 percent-plus stock price gain in just over two years.

And then it has something not going its way -- a federal crackdown on its immigrant labor force that has so far forced Chipotle to fire hundreds of allegedly illegal workers in the state of Minnesota, perhaps more than half its staff there.

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The probe is widening. Co-Chief Executive Monty Moran told Reuters on Friday that U.S. Immigration and Customs Enforcement (ICE) has also issued "notices of inspection" for restaurants in Washington D.C. and Virginia.

Investors in the Wall Street darling are taking note and one firm, Calvert Investments, plans to talk to Chipotle about the large number of undocumented workers uncovered.

Dependence on illegal labor is the elephant in the room for the U.S. restaurant business. And experts say the Chipotle ICE investigations are a wake-up call for an industry that is one of America's biggest employers and generates over \$300 billion in annual sales, according to research firm IBISWorld Inc.

Chipotle -- a Denver-based company whose motto is "Food With Integrity" -- is one of the most well-known names caught in the immigration enforcement shift that began two years ago.

At that time, Barack Obama, a proponent of immigration reform to help manage the 11 million undocumented immigrants in the United States, became president. Also at that time, immigrant hiring by restaurants began to rebound.

Obama has had to walk a fine line on the issue. He must uphold the law and appease Americans resentful of illegal immigrants working as the unemployment rate stubbornly sits at 9 percent. But he needs to do it in a way palatable to Hispanic voters who will be key to his re-election in 2012.

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Gone are the days of big raids that snared large numbers of workers, mostly from Mexico and Central America. Under Obama, immigration enforcement agents are cracking down on employers with so-called "I-9 audits" -- I-9 being the employment eligibility verification form.

ICE says that means companies' hiring practices could be subjected to the same degree of scrutiny as their bookkeeping is by the Internal Revenue Service.

"When you get a big name like Chipotle, it stands out and sends a message," said Jacqueline Longnecker, president of Reno-based Employment Verification Resources Inc.

"The onus is on employers now ... It sends the message that nobody is going to be excused from this," she said, adding that many companies -- both large and small -- do not recognize the potential liabilities they now face.

Chipotle believes it has not been singled out.

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"ICE has vowed to increase pressure on employers to avoid employing undocumented workers ... We are one of a large and growing number of companies to go through this process," Moran told Reuters by e-mail.

But to date, the majority of audits that have come to light in the restaurant business have been limited to small operators or franchisees of big chains, like Subway.

EMPLOYEE CHURN

The U.S. fast-food industry historically has offered relatively low pay and paltry benefits to legal workers and, as a result, has struggled with high employee turnover.

Longnecker and other experts said restaurant owners are attracted to illegal laborers because they work hard, are loyal and will go the extra mile to hold down a job.

It is hard to know the extent of hiring of illegal immigrants in restaurants. But immigrants -- both legal and illegal -- account for about a quarter of workers in the restaurant and food services industry and their numbers are up in recent years.

Their share fell from 24.5 percent in March 2006 to 21.4 percent in March 2008 -- before and during the recession -- but then recovered to 23.6 percent in March 2009 and March 2010, according to an analysis of the government's Current Population Survey (CPS) data conducted for Reuters by the Migration Policy Institute, a nonpartisan think tank.

The overall number of immigrants employed in the sector climbed from just over 1.7 million in 2008 to 1.8 million in 2010, according to this data, even as native employment fell from 6.4 million to 5.9 million.

The Pew Hispanic Center -- whose demographic and labor market work is highly regarded -- estimated in a 2009 report that 12 percent of the workforce in food preparation and serving in 2008 was undocumented.

Chipotle, which has more than 1,000 restaurants mostly in the United States and plans to open as many as 145 more in 2011, pays its workers more than the average burger flipper but its building binge has stoked its appetite for new hires.

Alejandro, one of the Chipotle workers fired in Minnesota who asked that his last name not be published for fear of reprisals, worked there for five years and earned \$9.42 per hour, taking home \$1,200 a month. That allowed him to send up to \$800 per month to his daughters to keep studying in Mexico.

"I thought it was a good company," said Alejandro, who lost his job in December along with 10 of his 20 co-workers. "I was even going to get training to be promoted to kitchen manager."

PROBLEMS WITH PAPERS

Alejandro, 37, and co-worker Tanya, a 35-year-old mother of four, admit they are in the United States illegally and had to use false documents to get their jobs at Chipotle.

"I believe that when you go to apply there, they know beforehand that you don't have papers," Tanya said by phone. "And after the six years I worked there, or the 10 years of some of my colleagues, they get rid of us without warning."

The false documents, which include things such as driver's licenses, Social Security cards and residence permits, are easy to come by "on the street," said Tanya. "Many people offer them. It is part of coming here and trying to make a better life for your children."

But Moran says that Chipotle has "always taken this issue very seriously, and over the last five years we have done a great deal to improve our systems, and our document review capabilities and procedures."

"Certainly this incident has been eye-opening for us and caused us to redouble our efforts to make sure we are doing all we can short of running afoul of the mandate of the Department of Justice," said Moran, adding that Chipotle performs two document reviews for each employee hired, one by the hiring manager and another by its human resources department.

The company, which has gained a cult-like following by serving natural and organic food where possible, stands out as one of the industry's top performers when it comes to sales at established restaurants and stock gains. Its stock price is flirting with \$250 compared to under \$40 in November 2008.

It also differs from other public traded chains in another very important way. Unlike McDonald's Corp and most other restaurant companies, it does not rely on franchisees to own and operate restaurants, which means it might be easier to hold its head office more accountable for infractions.

INVESTOR URGES 'BETTER SYSTEMS'

Investors, however, may not see much risk to Chipotle or other fast food companies from their immigration quandaries. Chipotle stock still ended 3 percent higher on Friday after the news of the widening immigration probe.

After all, the companies can simply go out and hire others or pay fines to ICE that probably won't dent their bottom lines. Total ICE fines last year were a paltry \$7 million.

But Maryland-based Calvert Investments said it was surprised by the extent of Chipotle's undocumented workers because the company scores high on the issues Calvert monitors -- good social, environmental and corporate governance.

"We would urge them to put better systems in place so that the likelihood of this occurring again is slim," said Ellen Kennedy, senior sustainability research analyst at Calvert, which oversees \$14.5 billion in assets.

Chipotle, which reports fourth-quarter earnings on Thursday, recognizes it is big deal for its operations.

"This incident has caused a lot of disruption -- both to us and in the lives of so many of our people," said Moran, whose company reported 22,250 employees at the end of 2009. "In addition, it's been a heartbreaking situation for us to lose so many excellent employees."

Indeed, it is not just a few workers who need to be hired and trained to keep the places running. Chipotle will not disclose the total number fired, but it could be as many as 700 of its estimated 1,200 Minnesota workers.

Those are the figures circulating among the Minneapolis legal community, according to Javier Morillo, the president of labor union SEIU Local 26, which does not represent the fast food sector but is helping the workers because of its interest in immigration reform.

The need for reform is where labor and business agree.

"We need those businesses that are being audited to speak up and say to the government this is insanity and it is not solving a thing," said Morillo.

Chipotle's Moran does speak up, saying in his email: "The system clearly isn't working very well as it is, and reform is absolutely necessary."

As for Tanya and Alejandro, they are fairly confident they will get new jobs in restaurants or factories in Minneapolis, but they probably won't get the good salary or long run they had at Chipotle.

(Additional reporting by Herb Lash in New York; Editing by Cynthia Osterman.)