

CAPITOL OFFICE
1021 O STREET SUITE 6640
SACRAMENTO CA 95814
TEL (916) 651 4018
FAX (916) 651-4918

CHULA VISTA DISTRICT OFFICE
303 H STREET SUITE 200
CHULA VISTA CA 91910
TEL (619) 409 7690

EL CENTRO DISTRICT OFFICE
1224 STATE STREET SUITE D
EL CENTRO CA 92243
TEL (760) 335 3442

WWW.SENATE.CA.GOV/PADILLA
SENATOR.PADILLA@SENATE.CA.GOV

California State Senate

SENATOR
STEPHEN C. PADILLA
EIGHTEENTH SENATE DISTRICT



COMMITTEES
BUDGET SUBCOMMITTEE #4 ON
STATE ADMINISTRATION AND
GENERAL GOVERNMENT
CHAIR
MEMBER
AGRICULTURE
BUDGET
GOVERNMENTAL ORGANIZATION
HOUSING
NATURAL RESOURCES AND WATER

June 23, 2023

The Honorable Stewart Knox, Secretary
California Labor and Workforce Development Agency
800 Capitol Mall, Suite 5000
Sacramento, CA 95814

Dear Secretary Knox:

I am writing to express concern regarding recent reports of brazen employment misclassification being carried out by Deel, and to urge the California Labor and Workforce Development Agency (LWDA) to investigate and hold the company's executives accountable. Despite the company's claim of compliance with relevant labor laws, the economic consequences of worker misclassification persist due to inaccurate or misleading information provided by the company.

Deel, headquartered in San Francisco, is a rapidly expanding software-as-a-service (SaaS) platform for remote hiring and international payroll services. Because of its rapid expansion, the company now employs more than 2,000 professionals in 90 countries, and it claims to be the fastest-growing SaaS company on record with a \$12 billion valuation. Deel, however, reportedly on-boarded much of its thousands-strong workforce as independent contractors as part of its global expansion strategy—including declaring its own CEO, Alex Bouaziz, as an independent contractor, according to a Business Insider article.¹ In fact, several employees have reported being shocked to learn they had been hired as long-term contractors despite originally applying as full-time employees, and without the ability to choose. While Deel's executives tout the flexibility and benefits of being an independent contractor, allowing its workers to work anywhere in the world, but in reality those workers are being short-changed and denied basic employment protections.

As you know, California law generally accepts that the basic test to distinguish an employee from an independent contractor is whether the company has the right to control the manner and means by which the work is performed. Therefore, in cases where a company controls how, and by what means workers perform their duties, they should be classified as employees. At Deel, however, independent contractors describe being required to work full-time hours during regular working hours, being paid on a fixed monthly or biweekly basis, using company equipment, routinely

¹ Price, Rob "Deel Speed The inside Story of a \$12 Billion HR Startup's Breakneck Growth" Business Insider. Accessed June 23, 2023 <https://www.businessinsider.com/inside-hr-startup-deel-culture-employment-regulatory-2023-2>

assigned tasks under upper management supervision, and even receiving annual performance reviews. Overall, workers report no noticeable differences between in-house employees and independent contractors since their day-to-day responsibilities are virtually indistinguishable.

Moreover, the company offers its independent contractors access to a range of benefits, including unlimited paid-time off, wellness stipends, and reimbursements for gym memberships and doctor's appointments—benefits that are typically associated with full-time employment. Combined with the continuous blend of day-to-day duties and some level of equal benefit offerings, Deel's independent contractors appear to be on an equal footing with their full-time counterparts, despite not being treated as such. Deel's independent contractors, however, continue to be denied the full suite of employment and social safety net benefits and labor protections they are entitled to, including healthcare, retirement, unemployment insurance, worker's compensation, collective bargaining, and overtime pay, among others.

Deel's unethical practice of misclassification illustrates how corporations prioritize profits at the expense of their employees' welfare. Under California law and across the United States, independent contractors are responsible for self-employment tax (*e.g.*, Social Security and Medicare), as well as any federal, state, and local income taxes.² Aside from being a difficult process for taxpayers to navigate, failure to comply may result in significant penalties, and prevent state and federal governments from receiving vital tax revenue to fund essential community services.

Moreover, by exploiting a tax loophole that allows Deel to deduct independent contractor pay as a business expense, the company not only avoids contributing to their workers' social security and taxes, but also tilts the playing field in their favor at the expense of the greater good. This greed-driven approach to labor management is a blatant reminder of the systemic inequities that persist in our economy, and it is deeply concerning to see companies like Deel prioritize their corporate bottom line at the expense of workers' basic rights and protections. In addition, Deel's apparent abuse of its workers classifications shortchanges the state and local communities by avoiding the payment of employment and other taxes, especially at a time of budget shortfalls throughout our state.

Compounding this issue, Deel appears to be advising its clients on how to misclassify workers and avoid taxes. Earlier this month, Deel CEO Alex Bouaziz encouraged companies to leverage “the different ways of employing someone or assigning them as an independent contractor...and therefore don't put as much tax liability into your company.” He encouraged companies to “spend some time on this topic” and offered to provide this as a service, stating “we can do that for you.” Beyond misclassifying its own workers, Deel seems to be advising clients, including many businesses headquartered or operating in California, to misclassify their workers and avoid paying appropriate taxes and employee benefits.

Although Deel may view its independent contractors as interchangeable with its full-time employees, this false equivalency fails to acknowledge the disparities in compensation and protection between the two groups and does not absolve the company from its obligation to provide fair and equitable compensation and benefits to all workers. Deel's widespread misclassification practices emphasizes the need for greater state scrutiny to ensure the company upholds its moral

² Self-employed individuals tax center Accessed June 23, 2023. <https://www.irs.gov/businesses/small-businesses-self-employed/self-employed-individuals-tax-center>.

obligation to support its workers and contribute to the social welfare of the communities in which it operates.

Thank you for your consideration and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen C. Padilla". The signature is fluid and cursive, with the first name "Stephen" written in a larger, more prominent script than the last name "Padilla".

STEPHEN C. PADILLA
SENATOR
EIGHTEENTH SENATE DISTRICT