



## IMMIGRATION

### FEDS SEEK SEIZURE OF BUSINESS CHARGED WITH EMPLOYING ILLEGAL ALIENS

April 2010

Federal authorities have taken the unusual step of seeking the forfeiture of an actual business that is suspected of employing illegal aliens. The French Gourmet, a San Diego-area bakery, its president and a manager have been charged with conspiring to engage in a pattern or practice of hiring and continuing to employ unauthorized workers (a misdemeanor) in addition to 14 felony counts, including making false statements and shielding undocumented alien employees from detection.

According to the indictment, the owner and managers, certified on the firm's Employment Verification Forms (I-9) that the documents they examined appeared to be genuine, and to the best of their knowledge, the employees listed on the I-9 were eligible to work in the United States. They then place the workers on the company's payroll and paid them by paycheck until they received "No Match" letters from the Social Security Administration (SSA) advising that the Social Security numbers being used by the employees did not match the names of the rightful owners of those numbers. The indictment goes on to allege that after receiving the "no match" letters, the company conspired to pay the undocumented employees in cash until the workers produced a new set of employment documents with different Social Security numbers.

In May 2008, ICE agents executed a federal search warrant at The French Gourmet and arrested 18 undocumented workers. During the searches, ICE agents seized employee and payroll records as evidence in the criminal case.

"Employers have a responsibility for maintaining the integrity of their workforce," said Mike Carney, acting special agent in charge for ICE Office of Investigations in San Diego. "This indictment shows ICE's commitment to holding businesses accountable when they repeatedly ignore immigration laws as it relates to their workforce. The goal of our enforcement effort is two-fold, first to reduce the demand for illegal employment and, second, to protect job opportunities for the nation's lawful workforce."

ICE has reported that in fiscal year 2009, worksite investigations resulted in a total of 410 criminal arrests, including 114 management personnel.

## Other Recent ICE Actions

### Missouri Roofing Company

On February 3, 2010, the owner of a Bolivar, Missouri, roofing company was sentenced in federal court to forfeit more than \$180,000.00 and pay a \$36,000.00 fine for knowingly hiring illegal aliens following a worksite enforcement investigation conducted by ICE.

Russell D. Taylor pleaded guilty Sept. 14, 2009, to knowingly hiring, contracting and sub-contracting to hire illegal aliens from August 2006 through April 2008.

The court ordered Taylor to forfeit to the government \$185,363.00, which represented the amount of proceeds obtained as a result of the offense, and to pay a fine of \$36,000, representing a \$3,000 fine for each of the 12 illegal aliens who worked under company supervision. A company supervisor also pleaded guilty in a separate but related case to harboring illegal aliens. Taylor was also sentenced to serve five years of probation, implement an employment-compliance plan and pay the \$185,363 forfeiture amount in monthly installments during the first 30 months of probation.

### Hanover, Maryland Restaurant

On February 16, 2010, the owner of a Hanover, Md., Chinese restaurant was arrested and charged with transporting, employing and harboring illegal aliens.

The criminal complaint alleges that, between January, 2009, and February 4, 2010, Yen Wan Cheng knowingly hired aliens who were not authorized to work in the United States, transported the aliens to their jobs, and harbored them in residences she provided. According to the criminal complaint, five aliens were specifically identified during the investigation as working at the restaurant and residing in a home Cheng owns in Columbia, Md.

She faces a maximum sentence of three years in prison for employing illegal aliens and five years in prison each for transporting illegal aliens, harboring aliens and harboring aliens for financial gain.



## Reno, Nevada Electronics Firm

On March 4, 2010, the owner of a Reno, Nev., electronics manufacturing company was indicted by a federal grand jury on six counts of encouraging illegal aliens to reside in the United States and aiding and abetting.

According to the indictment, between March 2005 and May 2009, Hamid Ali Zaidi, owner of Vital Systems Corporation, allegedly encouraged six illegal aliens to work at his company and therefore to reside in the United States, knowing that such residence was in violation of federal law.

If convicted, Zaidi faces up to five years in prison and a \$250,000 fine on each count.

## Baltimore, Maryland Restaurants

On March 11, 2010, ICE agents in Baltimore conducted enforcement operations at two Maryland restaurants, one office and several residences as part of an ongoing investigation.

ICE agents arrested 29 undocumented aliens for being unlawfully present in the United States.

## Beaufort County South Carolina, Restaurants and Residences

On March 24, 2010, ICE reported its agents and Beaufort, South Carolina, County Sheriff's Office ICE Task Force officers executed search warrants at two Jade Garden Chinese restaurants in Bluffton, South Carolina, and several residences, arresting 15 workers who are in the country illegally. The owner of the restaurant, an ICE immigration fugitive, was also arrested.

The criminal investigation into this case is ongoing. The U.S. Attorney's Office will make a determination on whether federal criminal charges will be pursued.

## Employment Verification

Under Citizenship and Immigration Services' ("USCIS") regulations, employers are required to complete and retain a Form I-9 for each individual they hire for employment in the United States. Form I-9 requires employers to review and record the individual's identity and employment eligibility document(s), and to determine whether the document(s) reasonably appear to be genuine as well as related to the individual.

An additional method for employers to verify employment eligibility is through the use of the E-Verify program. This is an online system that accesses Homeland Security and Social

Security databases and can provide almost instant confirmation of a worker's ability to work in the United States. However, the USCIS has announced it intends to begin data mining the information it obtains through E-Verify to identify patterns of misuse and fraudulent documentation.

## Dickinson Wright

Dickinson Wright has an extensive practice focusing on employment eligibility and employer sanctions including Form I-9 audits and defense of employer sanction investigations by federal authorities.

FOR MORE INFORMATION, CONTACT:



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