



EMAIL BULLETIN

WORKPLACE ENFORCEMENT EFFORTS INTENSIFY

U.S. Immigration & Customs Enforcement Pursues Criminal Penalties in Egregious Cases

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U.S. Immigration & Customs Enforcement (ICE) and U.S. federal prosecutors recently brought criminal charges against the president of Garcia Labor Company, a company alleged to have knowingly provided clients with contract laborers not authorized for work in the United States. Charges were brought after the employer ignored receiving a high percentage of “no match letters” from U.S. Social Security and continued to contract out workers who had responded that they were not authorized to work in the United States. The president and others entered a plea of “guilty” and were forced to disgorge \$12 million in profits resulting from the transactions over a period of five years.

While such conduct in the past several years may have resulted in only civil fines, Assistant DHS Secretary Julie L. Myers, who heads ICE, told the New York Times, “We found that fines were not an effective deterrent. Employers treated them as part of the cost of doing business.” The ineffectiveness of civil fines has drawn the attention of ICE and federal prosecutors to a more serious tool in their arsenal—criminal fines and potential prison sentences for the most egregious cases of conspiring to hire or provide workers known to be unauthorized for work in the United States.

Following incidents reported in previous Tindall & Foster Email Bulletins, this latest series of arrests reinforces the need for employers to ensure compliance with all Form I-9 Employment Eligibility Verification obligations. While these recent charges were brought as a result of multiple egregious violations, they were detected via a new initiative that is also capable of detecting, and proceeding against, lesser violations as well. The New York Times reports that, while criminal actions against employers numbered only 25 in 2002, ICE enforcement has increased exponentially with 445 arrests this year alone, deporting most of the 2,700 undocumented workers identified in their investigations.

Workplace enforcement initiatives are on the rise, and in this current climate of intolerance for the role employers are perceived to play in illegal immigration, it is more important than ever to conduct internal audits and ensure that appropriate compliance mechanisms are in place.

For more information on workplace enforcement and assistance in conducting appropriate internal audits and implementing effective Form I-9 compliance procedures, including new I-9 Solution software, please contact your Tindall & Foster Immigration attorney.