

Cases Target Illegal Labor

Immigration Crackdown Widens With Criminal Probe and Arrests at Restaurant Chains

By MIRIAM JORDAN and JULIE JARGON

The federal government deepened its crackdown on employers of illegal immigrants, charging the owners of one restaurant chain with hiding the employment of hundreds of undocumented immigrants and launching a criminal probe into the practices of another chain.

Reuters

Demonstrators staged a protest outside a Chipotle restaurant in Minneapolis in January.



On Wednesday, federal agents descended on 15 locations of Chuy's Mesquite Broiler in California and Arizona, arresting the owners and the chain's outside bookkeeper and detaining 40 suspected illegal immigrants.

According to a federal indictment, Mark Evenson, 58 years old, and his son, Christopher Evenson, 39, of Arizona, kept two payrolls: one for illegal immigrants staffing the kitchens and another for legal workers hired as servers. Unauthorized workers received checks "under the table," without any deductions of employment taxes, according to the indictment.

The chain's outside accountant, Diane Strehlow, 47, also of Arizona, participated in the conspiracy, the indictment alleges. Ms. Strehlow and the two owners are charged with evading taxes and violating immigration law. They are scheduled to make an initial court appearance Thursday.

No one could be reached at the chain's headquarters in Tempe, Ariz., and lawyers for the three people charged couldn't be located.

The charges, which followed a yearlong investigation, are among the toughest yet brought against executives in a work-site enforcement case, said John Morton, chief of Immigration and Customs Enforcement.

"This is a very significant case with national ramifications," he said.

Also Wednesday, executives at Chipotle Mexican Grill Inc. said on a conference call with investors that the federal government had begun a criminal probe into whether the company hired illegal immigrants at some of its 1,092 U.S. restaurants. The decision to pursue a criminal investigation marks a significant escalation in the government's scrutiny of the chain and could result in the arrest of company executives.

Immigration and Customs Enforcement has for several months been investigating Chipotle restaurants in Minnesota, Virginia and Washington, D.C. After an ICE review of the Denver-based chain's employee documents, the company let go 450 workers in Minnesota.

After ICE initiated an audit of company records in Virginia and Washington, D.C., recently, the company fired 40 workers at two Washington restaurants who allegedly submitted false documents to secure employment, according to a person familiar with the matter.

On April 13, the criminal division of the U.S. attorney's office for Washington, D.C., wrote the burrito chain seeking documents related to hiring. Chipotle Co-Chief Executive Monty Moran said on the call that the company had been "completely open" with the government, "and our discussions with them seem to be going well."

The Obama administration in 2009 shifted the focus of workplace enforcement from arresting illegal workers to pressuring employers not to hire illegal workers. The

approach includes expanded use of civil penalties, criminal prosecutions and company audits.

Employers face criminal charges if authorities can prove they knowingly employed unauthorized workers.

President Barack Obama, who favors an overhaul of U.S. immigration law that would legalize large numbers of foreign workers, hoped the new strategy would show enforcement was a priority at a time of high unemployment among Americans. Detractors say the strategy is ineffective because most of the illegal workers aren't deported and find other jobs.

In the fiscal year that ended Sept. 30, 2010, the ICE filed criminal charges against a record 180 owners, managers and other senior officials of companies. The case against the owners of Chuy's Mesquite Broiler, a grill-style eatery with more than 20 outlets, highlights how far some companies are going to mask the hiring of illegal immigrants, federal authorities say.

The 19-count indictment in the case alleges that the chain employed about 360 illegal workers over the course of the conspiracy. The chain under-reported and failed to pay at least \$400,000 in Social Security and Medicare taxes, the indictment alleges.

The indictment, which stems from a joint probe by the ICE and the Internal Revenue Service, alleges that chain's two-tier payroll system was created by the owners before January 2008.

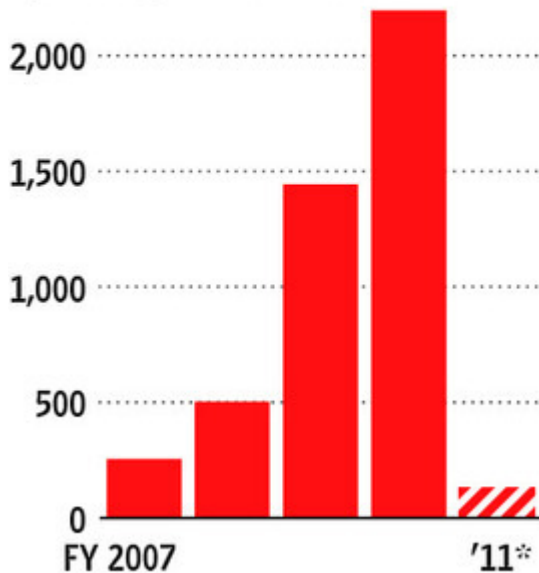
That year, a law went into effect in Arizona requiring all employers to use E-Verify, an electronic system designed to screen out individuals who aren't eligible to work in the U.S.

About 11 million illegal immigrants reside in the U.S., according to the Pew Hispanic Center. Lacking documents, some of them have traditionally used phony names and Social Security numbers to gain employment

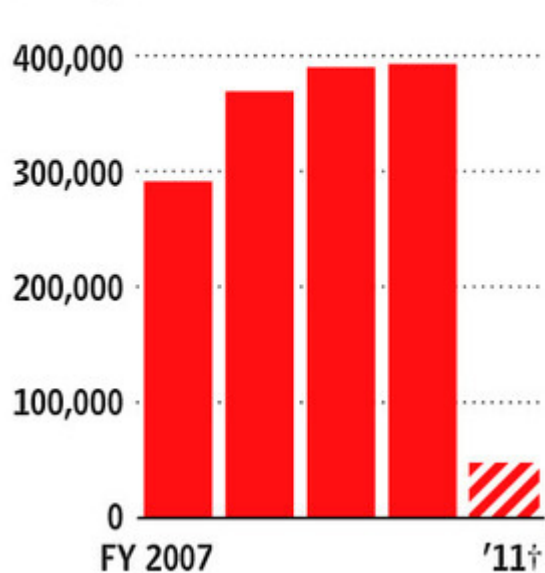
A New Focus for Feds

In 2009, the Obama administration shifted the focus of workplace enforcement to employers from illegal workers.

Inspections of company records by immigration authorities



Total deportations of illegal immigrants



*through Jan. 18 †through Nov. 29, 2010 Source: U.S. Immigration and Customs Enforcement

In recent years, technology has made it increasingly difficult for counterfeit documents to pass muster. Last week, two McDonald's restaurant managers in Savannah, Ga., were charged with selling identities stolen from U.S. citizens to prospective employees.

In the Chipotle case, it wasn't immediately clear which restaurants the U.S. attorney's document request applied to, or how wide the inquiry is aimed, said Mr. Moran, the co-CEO.

Bill Miller, a spokesman for the U.S. attorney in Washington, D.C., declined to comment on specific cases but said his office routinely worked with ICE and other federal agencies.

Chipotle is installing new procedures for verifying employees' immigration status, Mr. Moran said. "We believe our plan will address [ICE's] concerns," he said. "We are working now to roll out those enhancements."

E-Verify is now in use at all of Chipotle's U.S. restaurants.

Previously, Chipotle has relied on employees to fill out I-9 forms containing their identity information, had the hiring manager review the I-9s and supporting documentation, and then had someone from human resources review them a second time.

To further bolster its verification efforts, Chipotle is installing a paperless process for submitting I-9 forms that's supposed to reduce errors, and is hiring dedicated I-9 specialists to perform the second level of review of the documents, in place of general human resources staff, Mr. Moran said.