

Immigration Law \approx Foodservice

Summer 2008 Immigration Enforcement Update

by Becki L. Young

[Editor note: *Foodservice Monthly* welcomes immigration law expert Becki L. Young to our growing roster of contributing writers. Becki is local; Becki knows the law. Read and learn.]

This summer federal officials carried out the two largest immigration raids in U.S. history, arresting approximately 400 undocumented workers at the Agriprocessors kosher meatpacking plant



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in Iowa in May and approximately 600 undocumented workers at the Howard Industries transformer plant in Mississippi in August.

According to www.ice.gov, these raids are part of an ongoing effort by U.S. Immigration and Customs Enforcement (ICE) to target employers "who use illegal workers to cut costs and gain a competitive advantage against law abiding businesses." So far this fiscal year (Sept. 30, 2007 through Aug. 30, 2008), ICE has made 1,070

criminal arrests tied to worksite enforcement investigations. Of those, 123 are owners, managers, supervisors or human resources employees accused of violations ranging from alien harboring to knowingly hiring illegal aliens. The remaining criminal defendants are workers arrested on charges including aggravated identity theft and Social Security fraud. ICE has also made approximately 4,700 administrative arrests for immigration violations during worksite enforcement operations this fiscal year.

Among the enforcement actions that occurred this summer are the arrests of local restaurant owners in Wheaton and Ocean City, Md.



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On July 24 the co-owners of El Pollo Rico Restaurant in Wheaton, pleaded guilty to conspiracy to harbor aliens, conspiracy to commit money laundering, and structuring bank transactions to evade reporting requirements. According to the guilty plea, defendant Francisco Solano concealed unauthorized workers in residences and businesses he and his wife Ines Hoyos-Solano owned and rented in Wheaton and Kensington, paid the aliens in cash and accepted rent payments in cash only, and failed to prepare I-9 Employment Eligibility Verification Forms for the unauthorized workers. In addition, Solano laundered the proceeds from the illegal employment of aliens, using funds derived from the employment of unauthorized workers to pay for more than \$7.2 million in personal assets, and he structured deposits into the business account in amounts less than \$10,000 to avoid triggering bank reporting requirements that could reveal criminal conduct.

On June 3 the owners of two Ocean City, restaurants, Miyako Sushi & Seafood Buffet and Panda China Buffet pleaded guilty to evading taxes and unlawfully employing aliens. Agents found that the owners, Bo Hao Zhu and his wife Ping Cheng, knowingly hired unauthorized workers, "concealed them from detection in residences [they] owned and rented," and paid them less wages than the law required. The owners also failed to pay required employment taxes and provided false information to the IRS concerning wages paid to employees.

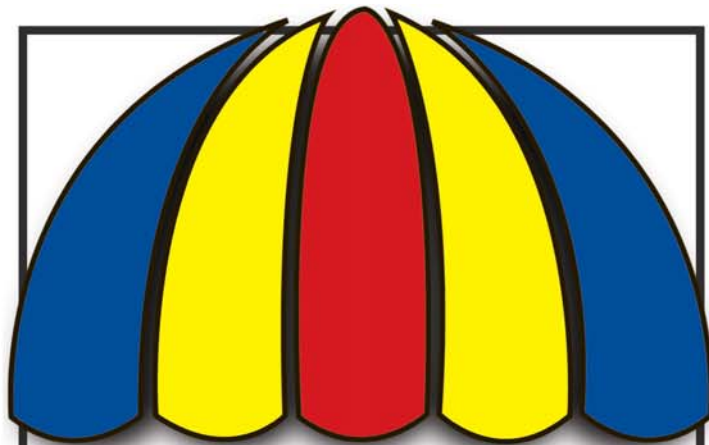
Other recent immigration enforcement news concerning the foodservice industry includes:

- On September 10, 2 supervisors and 51 workers were arrested for immigration violations at the Palm Springs Baking Company in California.
- On September 5 the president and 3 managers of Shipley Do-Nut Flour and Supply Company in Houston, Texas, pleaded guilty to immigration violations including hiring or continuing to hire illegal aliens and the company agreed to pay \$1.334 million in fines.
- On August 20 the owner of the Jumbo Buffet restaurant in Lagrange, Kentucky (who himself is unlawfully present with an outstanding order of deportation) was indicted on charges of harboring illegal aliens at his restaurant.
- On August 8 an official with the United Food and Commercial Workers (UFCW) union was sentenced to a year and a day in federal prison for harboring unauthorized workers employed at the Swift & Company meat processing plant in Marshalltown, Iowa. This sentencing resulted from an investigation that also included the December 2006 arrests of 1,297 unauthorized workers at Swift plants in six states.
- On July 23 federal agents administratively arrested 58 restaurant employees on immigration violations after executing federal search warrants at eight Casa Fiesta Mexican restaurants throughout northern Ohio.
- On July 16 one current and one former top executive for a franchisee that owns 11 McDonald's restaurants in and around Reno, Nevada, and the corporation itself pleaded guilty in federal court in Las Vegas to federal felony immigration offenses for encouraging illegal aliens to reside in the United States. In addition, the corporation agreed to pay a \$1 million fine.

Though many of the enforcement actions summarized above involved egregious violations of the immigration laws, even the best-intentioned employers can sometimes become tripped up in the murky and confusing maze of immigration compliance. Next month's column will provide some practical steps that foodservice employers can take to ensure that their workers are properly documented, and that they are operating in accordance with U.S. immigration laws.



Becki L. Young has been working in the field of immigration law since 1995. Ms. Young's practice focuses on employment-based immigration law. She has represented employers in a variety of industries, including investment banking and securities, information technology, health care, and hospitality, providing advice on work permits and related immigration issues. Contact her to learn more or to schedule a personal consultation by calling 202-232-0983 or e-mailing becki.young@blylaw.com.



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