UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

United States of America, Complainant, v. J.J.L.C., Inc. t/a Richfield Caterers and/or Richfield Regency, Respondent; 8 USC § 1324a Proceeding; Case No. 89100187.

DECISION AND ORDER
(April 13, 1990)

MARVIN H. MORSE, Administrative Law Judge

Appearances: **LEO P. WEBER**, Esq., for the Immigration and Naturalization Service.
JOHN B. CRANER, Esq., for the Respondent.

I. Introduction

The Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99-603, 100 Stat. 3359 (November 6, 1986) at Section 101, enacting section 274A of the Immigration and Nationality Act of 1952 as amended (INA), codified at 8 U.S.C. § 1324a, adopted significant revisions in national policy on illegal immigration. IRCA introduced civil and criminal penalties for violation of prohibitions against employment in the United States of unauthorized aliens. Civil penalties are authorized also when an employer has failed to observe record keeping verification requirements in the administration of the employer sanctions program.

Title 8 U.S.C. § 1324a(a)(1)(B) makes it unlawful for ``a person or other entity,'' i.e., an employer, to hire any individual for employment in the United States without complying with the employment verification (paperwork) requirements of 8 U.S.C. § 1324a(b). Title 8 U.S.C. § 1324a(b)(1)(A) provides that an employer is liable for failure to attest ``on a form designated or established by regulation of the Attorney General that it has verified that the individual is not an unauthorized alien . . . .'' The term ``individual'' means a putative employee.

Title 8 U.S.C. § 1324a(b)(2) requires that the employee attest, under penalty of perjury, on the verification form as to his or her employment authorization. Title 8 U.S.C. § 1324a(b)(3) sets forth requirements for retention and availability for inspection of the verification form. The Immigration and Naturalization Service (INS or Complainant), by delegated authority of the Attorney General, by regulation of 8 C.F.R. § 274a.2(a), has designated the Form I-9 as the Employment Eligibility Verification Form to be used by employers in complying with IRCA's employment verification requirements.

II. Procedural Background

This case began on April 14, 1989 when the Immigration and Naturalization Service (Complainant, INS or Service) filed a Complaint against Min Goldblatt and Sons, Inc. T/A Richfield Caterers (Respondent or Richfield) in the Office of the Chief Administrative Hearing Officer (OCAHO). OCAHO issued a Notice of Hearing on April 20, 1989. Respondent denied all allegations of the Complaint by timely Answer dated May 5, 1989.

The telephonic prehearing conference on August 2, 1989 scheduled a second conference for November 6 and an evidentiary hearing to begin in Newark, New Jersey, on November 14, 1989. INS having filed, on October 30, 1989, a Motion for Continuance to allow time under 28 C.F.R. § 68.36(a) to file a motion for summary decision, an emergency second conference was held on November 2, 1989 instead of the one scheduled for November 6. I denied the Motion, stating that there appeared to be a genuine dispute of material fact since Respondent maintained ``that it had in fact and law substantially complied with requirements to compile and maintain a significant number of employment verification forms.''

The parties stipulated before hearing that the proper identification for Respondent is J.J.L.C. T/A Richfield Caterers and/or Richfield Regency.

Following hearing on November 14, 1989, both parties filed post-hearing briefs, Complainant's on February 28 and Respondent's on March 6, 1990; although the briefing schedule authorized reply briefs neither party filed one.

III. Facts

Consistent with the usual practice in administrative adjudications under 8 U.S.C. § 1324a, the Complaint incorporated by reference and attached the allegations contained in an earlier Notice of Intent to Fine (NIF), dated March 25, 1989, issued by INS to Respondent. Consistent with IRCA, 8 U.S.C. § 1324a(e)(3)(A), and im-

plementing regulations, 8 C.F.R. § 274a.9(d), on April 5, 1989, Respondent requested a hearing before an administrative law judge.

Count I charges Respondent with failing to execute Part 2 [the employer's attestation] of I-9s for seven individuals hired for employment in the United States after the effective date of IRCA, i.e, after November 6, 1986, and for failing as the employer to ensure as to each of those seven I-9s that the employee had executed Part 1 [the employee's attestation]. Count II charges Respondent with failing to execute Part 2 of the I-9s for 94 additional individuals so hired. INS set the civil money penalty for Count I at $300.00 for each violation, a total of $2,100.00, and for Count II at $150.00 for each violation, a total of $14,100.00, an aggregate sum of $16,200.00 for 101 alleged paperwork violations.

On January 20, 1988, Sandra Steiner, Compliance Specialist, U.S. Department of Labor (DOL), explained an employer's IRCA compliance duties to Respondent's office manager, Charlotte Hellman. Ms. Steiner pointed out discrepancies in certain I-9s, and gave Ms. Hellman a copy of the INS Handbook for Employers, subtitled `` Instructions for Completing Form I-9''; DOL subsequently filed a report of her visit to Richfield with INS. That report, dated January 20, 1988, recites that Respondent failed to maintain proper I-9s, that Ms. Hellman said she had been unaware that the I-9 requirement pertained to all employees, and ``agreed to keep appropriate I-9s in the future.'' Exh. 2.

On June 2, 1988, INS Special Agent Elliot Misshula served a notice of compliance review and audit to be conducted on June 8, 1988. When the audit was completed, Misshula asked for and obtained copies of 21 I-9s he considered contained the most egregious violations. When he subsequently asked for additional I-9s and was refused, INS issued an administrative subpoena for district court order to enforce its subpoena. Exhs. 4-5. On November 21st or 22nd, 200 I-9s were turned over to INS, another 195 on December 9, 1988. As summarized by Complainant, ``a list of hire and termination dates, which had also been requested through the subpoena, was never turned over.'' INS Brief at 4.

The parties disagree whether Ms. Steiner told Ms. Hellman that attaching documents to the I-9s was an acceptable substitute for attesting to them on the I-9. Cross-examining Ms. Steiner, Respondent's counsel suggested that Ms. Hellman continued to attach employment verification documents to the I-9s in reliance on Ms. Steiner's information. Not having pursued that claim on brief or otherwise, I understand Respondent to have abandoned it. In any event, Ms. Steiner's recollection of conversations with Ms. Hellman were substantially more detailed and forthcoming than were the

lattler's. The conflict is resolved on the basis of my observation of them both on the witness stand, considering also the gross indifference shown by Respondent to any reasonable I-9 compliance effort. I conclude that Ms. Steiner did not tell Ms. Hellman that attaching copies of the documents would be the same as attesting that she had examined them. Tr. 38.

Deficiencies can be highlighted as follows:

* Of the 101 I-9s at issue, exh. 6, none contain an attestation by Richfield.

* Where signatures are provided at Part 2, they are not identifiable as those of the employer, appearing instead on at least seven I-9s to be those of employees, e.g., Raymond J. Goode, Jodi Goldblatt, Ronald Greene, Willie Hill, Toni McLaughling, Abdul Walker, and Pedro Plasencio whose I-9 appears at Parts 1 and 2 to contain the same name with different signatures.

* Part 1 of the I-9s for each of the seven employees named in Count 1 of the Complaint is incomplete on its face, either lacking name, address, date of birth and social security number (Hock); lacking identification as a citizen or alien (Plasencio, Roppatte, Dabady and Godbolt); lacking name, address, date of birth, social security number and identification as a citizen or alien (Smith); or lacking all data as well as the employee's signature (Landfair), nor is there a signature in the employee attestation block for Smith, Dabady or Godbolt.

* Twenty-two of the I-9s implicated in Count II not only lack Part 2 attestation but are also devoid of attachments.

* On twelve I-9s, some of which are also deficient for other reasons, Part 1 is incomplete. For example, on the I-9s for Peter Westenhiser and Craig Landfair only the names are set out on the top line; no attestation or other entries are set forth.

* Certain I-9s attach documents which are internally inconsistent, e.g., Robert Jermain Godbolt appears on the I-9, accompanied by a birth certificate in the name of Keith Jamil Godbolt; Beverly A. McBride appears on the I-9, maiden name shown as Foster, accompanied by a New Jersey Driver License issued to Beverly A. Kinney [?] and a social security card to Beverly A. McBride.

* Certain I-9s fail to identify the employee in any respect, but name an individual in the space provided for the name and address of whomever translates the I-9 for the employee. For example, at the space for the translator's name, the name Marion Lee Smith appears, the same name set out on the attached Honduran birth certificate. A resident alien ``green'' card bears the name Marion Smith-Wagner.

* Certain I-9s attached documentation which is insufficient for employment verification purposes, e.g., a New Jersey driver license, standing alone for Randy Lee Hertzog; a New Jersey driver license (with no photograph) for Timothy K. Holl, standing alone.

IV. Discussion

A. Form I-9 Responsibility Adjudged

The essential issue in this case is whether attaching copies of employee verification documents to the I-9 without attesting to either part I or II of the Form constitutes lawful compliance with the paperwork requirements of IRCA. Respondent contends that ``by physically attaching the documents examined, which proved that the individual is authorized to work in the U.S.'' it has substantially complied with those requirements. Conceding that ``it may not have complied with the literal language of the statute,'' Respondent claims it is sufficient that it ``complied with the spirit and intent of the statute . . . .'' Resp. Brief at 3-4.

Of course, as discussed above, at least 22 I-9s, a significant number in my judgment, lacking any attachments, cannot satisfy even Respondent's theory of substantial compliance with respect to Part 2 of the Form I-9. I do not understand the substantial compliance argument to be applicable at all to those I-9s which lack identifying data or employee attestation in Part I. Absent Part I entries, it is not credible that an employer satisfies the 8 U.S.C. § 1324a(b)(2) attestation requirement by substituting documentation for its signature. Without Part I entries there is no data or employee signature to which either the employer's signature or documentation can attest.

IRCA imposes attestation responsibilities both on employers, 8 U.S.C. § 1324a(b)(1)(A) and employees, 8 U.S.C. § 1324a(b)(2), under penalty of perjury and on the form designated, i.e., I-9. Failure by an employer to perform dual duties, employer attestation on Part 2 of Form I-9 that employee documents have been verified, and ensuring that the employee has properly completed Part 1 of Form I-9, imposes liability on the employer for paperwork violations with respect to both Part 1 and Part 2.

I hold here that the introductory sentence of 8 U.S.C. § 1324a(b) unambiguously places on employers the duty to ensure compliance with the attestation requirements imposed pursuant to subsection 1324a(b) both on employers and employees (8 U.S.C. § 1324a(b):

> The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified [in paragraphs (1) (2) and (3)] . . . .

The cross-references to 8 U.S.C. § 1324a(a)(B) and (3) confirm that the quoted requirement addresses responsibility of employers because both those provisions deal exclusively with conduct by employers and not by employees. Moreover, the entire text and tenor of section 1324a make clear that ``a person or other entity'' refers to employers (and employment agencies) while ``an individual'' refers to employees. It follows that the quoted text makes employers responsible for compliance with employer attestation requirements pursuant to paragraph (1) [8 U.S.C. § 1324a(b)(1)] and employee attestation requirements pursuant to paragraph (2) [8 U.S.C. § 1324a(b)(2)], as well as retention and presentation requirements pursuant to paragraph (3) [8 U.S.C. § 1324a(b)(3)].

To conclude otherwise would depart from the thrust and intent of IRCA which mandated a new national policy intended to disable employers from hiring unauthorized aliens. The holding here that employers have a dual duty has been implicit in the emerging case law under section 1324a(b). See e.g., U.S. v. Boo Bears Den, OCAHO Case. No. 89100097, July 19, 1989, at 3.

I find and conclude that each of the seven I-9s included in Count I is incomplete, failing in one or more respects to satisfy I-9 requirements. I also find and conclude that each of the 94 I-9s included in Count II is incomplete, failing in one or more respects to satisfy I-9 requirements. See, generally, Handbook for Employers, supra.

B. Substantial Compliance Not Found On This Record

A number of the 101 I-9s contain as attachments copies of documents which, if attested to, would support a judgment that the individual is authorized to be employed in the United States. A significant number of I-9s are accompanied, however, by documentation which do not support Respondent's theory of substantial compliance because they do not satisfy 8 U.S.C. § 1324a(b) as implemented at 8 C.F.R. § 274a.2(b). At least seven I-9s, for example, attach two documents evidencing employment authorization, a birth certificate and social security card, but none establishing identity of the individual; at least 13 others include a document which evidences employment authorization but do not include one which is adequate to establish identity, e.g., a New Jersey driver permit that contains no photograph. See 8 U.S.C. § 1324a(b)(1)(D)(i) and 8 C.F.R. 274a.2(b)(v)(B)(l)(i).

Respondent's failure to distinguish among those I-9s which might credit its own theory from those which do not, makes clear the essential weakness in its argument. Absent attestation by the employer, neither INS as the enforcement agency, or the adminis-

trative law judge as the adjudicator, can determine from the employment verification system whether an employer has satisfied its statutory obligation to ensure against employment of unauthorized aliens. I agree with INS that attestation is crucial to compliance with the employment verification program. Absence of a signature implies that no one in a capacity to hire and fire individuals on behalf of Respondent has actually examined each new employee's documentation.

A recent decision granting partial summary decision in favor of INS disposed of some but not all claims of substantial compliance urged by an employer in defense of charges of paperwork violations. In U.S. v. Manos & Associates, Inc., d.b.a. The Bread Basket Restaurant, OCAHO Case No. 89100130, February 8, 1990 (Order Granting in Part Complainant's Motion for Summary Decision), the judge explicitly rejected the claim that the employer substantially complied with verification requirements when it photocopied an employee's documentation and attached that copy to the ``facially uncompleted Form I-9.'' Id. at 15. Respondent asserted compliance on the basis of language in the pertinent regulation, 8 C.F.R. § 274a.2(b)(3), permitting employers to copy employees' verification documents and requiring any such copies to be retained with the I-9s.

The judge in Manos held that the employer's reliance on subsection 274a.2(b)(3) was misplaced in light of the permissive and supplemental character of that provision, which provides, in pertinent part, that ``[A]n employer . . . may, but is not required to copy a document presented by an individual solely for the purpose of complying with the verification requirements of this section.'' The regulation is in terms permissive, not mandatory, supplemental to and not inconsistent with the mandatory reach of the regulation generally implementing 8 U.S.C. § 1324a(b) i.e., 8 C.F.R. § 274.2(b). I agree. Moreover, the instructions on the reverse of each Form I-9 for completing the form, reproduced in the Handbook for Employers, are patently peremptory; accompanied by text similar to that of the regulation, they address in obviously permissive terms the copying of employee documentation.

I reject also Respondent's suggestion that it has satisfied the paperwork requirements because it has ``examined'' employee documentation. Respondent's apparent reliance on the statutory term ``examination'' [at 8 U.S.C. § 1324a(b)(1)_(A)] ignores not only the statutory requirement for attestation ``under penalty of perjury,'' subsection 1324a(b), but the reality that absent attestation it is not possible to determine whether the employer has satisfied the sub-

stantive requirement that it has ``verified that the individual is not an unauthorized alien.'' Id. at (b)(1).

The doctrine of substantial compliance is an equitable one which is designed to avoid hardship in cases where a party does all that can be reasonably expected of it. Whether or not to apply the doctrine, however, can be determined only in context of the statutory prerequisites. Substantial compliance is not available to defeat the policies underlying statutory provisions. In this case, the prohibition against unlawful employment of unauthorized aliens, coupled with paperwork requirements to verify that only individuals who are authorized to work in the United States are hired, provides the substantive rationale for the Form I-9 which employers are obligated to properly complete and retain.

Substantial compliance has been defined as satisfaction by a party of the standard of ``actual compliance with respect to the substance essential to every reasonable objective of the statute'' Internatl. Longshoremen and Warehouse Unions Local 35 et al. v. Bd. of Supervisors, 116 Cal. App. 3d 265, 273, 171 Cal Rptr. 875, 880 (1981), quoting Stasher v. Hager-Haldeman, 58 Cal. 2d 23, 29, 22 Cal. Rptr. 657, 660, 372 P. 2d 649 (1962). This is not such a case. Respondent has breached statutory imperatives; it has failed to prove that it has even satisfied its own theory of substantial compliance in respect to an overwhelming number among the I-9s.

Moreover, ``the doctrine of substantial compliance can have no application in the context of a clear statutory prerequisite that is known to the party seeking to apply the doctrine.'' Sawyer v. County of Sonoma, 719 F.2d 1001, 1008 (9th Cir. 1983). Here, the statute is clear. Attestation is an essential substantive requirement, making its omission a critical factor in gauging an employer's compliance with IRCA. Unlike omissions which may be deemed technical in nature, an employer's failure to sign an I-9 is not substantial compliance. Unquestionably, the overriding purpose of employer sanctions, 8 U.S.C. § 1324a, is to place a burden on employers to assure that they do not hire individuals without first verifying their eligibility to work. By attaching copies of employee documentation to the I-9s but failing to perform other prescribed I-9 duties, Respondent has failed to meet that burden.

Because IRCA, as implemented at 8 C.F.R. § 274a.2(b), imposes duties on employers to attest to Part 2 of the I-9 form under penalty of perjury, and to ensure attestation by employees of part 1, I cannot agree with Respondent that attestation is merely a technical and non-essential requirement of employer ~~~compliance with 8 U.S.C. § 1324a.

V. Civil Money Penalties

As appears from the foregoing discussion, I adjudge that Respondent has violated 8 U.S.C. § 1324a(1)(B) alleged by INS with respect to 101 individuals as to whom I-9s were incomplete as a matter of law. Having found culpability, I am required to assess civil money penalties ``in an amount of not less than $100 and not more than $1,000 for each individual with respect to whom such violation occurred.'' 8 U.S.C. § 1324a(e)(5).

Complainant in its NIF proposed, and has adhered to, $300 each for the seven I-9 violations in Count I and $150 for each of the 94 I-9 violations in Count II. In determining the quantum of penalty I am obliged to consider five factors as prescribed at 8 U.S.C. § 1324a(e)(5): size of the employer's business, good faith of the employer, seriousness of the violation, whether or not the individuals involved were unauthorized aliens, and history of previous violations.

In the first administrative adjudication under 8 U.S.C. § 1324a(a)(1)(B) I applied the five factors on a judgmental basis. U.S. v. Big Bear Market, OCAHO Case No. 88100038, March 30, 1989, Empl. Prac. Guide (CCH) para. 5193, aff'd by CAHO, May 5, 1989, appeal pending, No. 89-70227 (9th Cir. filed May 31, 1989). Subsequently, in U.S. v. Felipe, Inc., OCAHO Case No. 88100151, October 11, 1989, the judge applied a mathematical formula to the five factors in adjudging the civil money penalty. On administrative appeal, the Chief Administrative Hearing Officer (CAHO) commented that ``[T]his statutory provision does not indicate that any one factor be given greater weight than another,'' Affirmation by the Chief Administrative Hearing Officer of the Administrative Law Judge's Final Decision and Order, OCAHO Case No. 89100151, November 29, 1989 at 5. The CAHO affirmation explained also that while the formula utilized by the judge was ``acceptable'' it was not to be understood as the exclusive method for keeping faith with the five statutory factors. Id. at 7. Consistent with that understanding, I recently utilized a judgmental approach, considering each of the five factors in respect of the paperwork violation in U.S. v. Buckingham Limited Partnership d/b/a Mr. Wash, OCAHO Case No. 89100244, April 6, 1990.

As in Big Bear, supra, at 32, I have considered only the range of options between $100 and $300 as to each individual named in Count I, and between $100 and $150 as to each individual named in Count II. Having described those parameters, however, I am satisfied that in selecting the quantum assessed, INS considered two factors in Respondent's favor, i.e., that no unauthorized aliens were found, and there was no history of prior violations. INS Brief at 26.

The record is sparse as to business size, dependent essentially on Agent Misshula, with whose testimony Respondent takes no exception. Mr. Misshula, an unusually articulate and informed agent, expressed the opinion that Richfield was a substantial catering establishment with bookings years into the future, ``as a catering business goes, it was a rather successful operation.'' Tr. 83. In my judgment, as to size, the record is only informed to the effect that Respondent is a viable business operation, presumptively able to pay the penalty at issue. The record, however, indicates that many individuals are hired on an occasional basis for specific events and not long term hire, suggesting high turnover and difficulty in maintaining optimum recordkeeping on a transient workforce. Tr. 116-17.

I hold that failure to attest on Part 2 of Form I-9 is a serious violation, implying avoidance of liability for perjury but also reckless, disregard for plain and obvious statutory and regulatory mandates made clear to Respondent. To similar effect see, U.S. v. Acevedo, OCAHO Case No. 89100397, October 12, 1989 at 5. This conclusion, applicable to a single such failure is multiplied in the present case where 101 Form I-9s manifest a broad range of inadequate compliance with Part 2 requirements in addition to omission of signatures. Even more serious are the seven among the 101 cases which also involve Part 1 deficiencies. Taken separately or as a whole, Respondent's disregard for substantive compliance frustrates national policy reflected in enactment of 8 U.S.C. § 1324a.

I find this record barren of good faith compliance. For the reasons already stated as to seriousness, I find the violations also to be repugnant to claims of good faith. Given the scope of violations, considering the variations on the theme listed at page 3 above, I find Respondent lacked requisite good faith to support mitigation of penalty. For example, Respondent's persistent assertions of good faith, Brief at 7, said to be demonstrated by its ``examining the documents,'' is at odds with the record. In addition to the deficiencies already highlighted, random review of the I-9s in Count II illustrates entries which the most casual examination would have proven erroneous, e.g., Stacey Lee Mark signed Part 1 on ``2-4-66,'' and Ramos Efrain on ``7-10-70,'' and Joanne Scala's is undated. Failure to attest aside, as appears from I-9s for individuals named in Count II, over a period of months after Ms. Steiner met with Ms. Hellman there was very little heed paid to making proper entries.

I am satisfied, considering that there were as many as 101 I-9 violations proven, taking into consideration my own judgmental application of the statutory factors that INS reasonably mitigated the first two factors discussed. While I cannot condone Respondent's

failure to satisfy employment verification requirements, this is the first case of which I am aware which has been fully litigated involving a catering establishment. The nature of such a business having been shown to involve high turnover, short duration and part time employment, I am inclined to reduce the penalty asserted. Considering, however, the pervasive extent of the I-9 deficiencies, and the callous disregard for compliance reflected by their number and scope, I cannot reduce the quantum to the statutory minimum. On this record, to reduce the penalty to the minimum would provide the wrong signal to this employer and also to INS. Accordingly, I reduce the penalty for Count I to $200 per individual and for Count II to $125 per individual, a civil money penalty of $13,150.

VI. Ultimate Findings, Conclusions, and Order

I have considered the pleadings, testimony, evidence, memoranda, briefs, and arguments submitted by the parties. All motions and requests not previously disposed of are denied. Accordingly, and in addition to the findings and conclusions already mentioned, I make the following determinations, findings of fact, and conclusions of law:

1. As previously found and discussed, I determine, upon the preponderance of the evidence, that Respondent violated 8 U.S.C. § 1324a(a)(1)(B) by failing to comply with the requirements of 8 U.S.C. § 1324a(b) (1) and (2), i.e., by failing to ensure that the seven individuals named in Count I properly completed Part 1 of the Employment Verification Form (Form I-9) and by failing to complete Part 2 of Form I-9 as to those individuals and also as to the 94 individuals named in Count II.

2. That Respondent hired the individuals named in Counts I and II after November 6, 1986, for employment in the United States without complying with the requirements of 8 U.S.C. § 1324a(b)(1) as to both counts and also without complying with the requirements of 8 U.S.C. § 1324a(b)(2) as to Count I.

3. That Respondent, as the employer, is responsible to ensure that individuals hired by it after November 6, 1986, for employment in the United States, properly complete Part 1 of Form I-9, for the reasons, inter alia, that the initial sentence of 8 U.S.C. § 1324a(b) so requires.

4. That the requirement to properly complete Forms I-9 is one of substance, breach of which does not, on the record in this case, avail Respondent of the defense of substantial compliance.

5. That upon consideration of the statutory criteria for determining the amount of the penalty for violation of 8 U.S.C. § 1324a(1)(b),

it is just and reasonable to require Respondent to pay a civil money penalty in the sum of $13,150.00, comprised of $1,400.00 for Count I consisting of seven violations at $200.00 per individual, and $11,750 for Count II, consisting of 94 violations at $125.00 per individual.

6. This Decision and Order is the final action of the judge in accordance with 28 C.F.R. § 68.51(a). As provided at 28 C.F.R. § 68.51(a), this action shall become the final order of the Attorney General unless, within thirty (30) days from the date of this Decision and Order, the Chief Administrative Hearing Officer, upon request for review, shall have modified or vacated it. See also 8 U.S.C. § 1324a(e)(7), 28 C.F.R. § 68.51(a)(2).

SO ORDERED.
Dated this 13th day of April, 1990.

MARVIN H. MORSE
Administrative Law Judge