

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

United States of America, Complainant vs. Visit U.S.A. Bureau_San Francisco, Inc., Respondent; 8 U.S.C. 1324a Proceeding; Case No. 90100123.

ORDER

1. A Complaint Regarding Unlawful Employment was filed by the United States of America, through its agency the Immigration and Naturalization Service (Complainant) on March 28, 1990 against Visit U.S.A. Bureau_San Francisco, Inc., Respondent. Count I of the Complaint alleges a violation of 8 U.S.C. Section 1324a(a)(1)(A), for the knowing hire of an unauthorized alien, as follows:

Count I
Knowingly Hired

- A. Respondent hired Hiroyo Ito for employment in the United States.
- B. Respondent hired Hiroyo Ito for employment in the United States after November 6, 1986.
- C. Hiroyo Ito wa (sic) an alien not, at the time Respondent hired her, authorized for employment in the United States.
- D. Respondent hired Hiroyo Ito knowing that she was an alien not authorized for employment in the United States.

WHEREFORE, it is charged that Respondent violated Sec. 274A(a)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. Sec. 1324a(a)(1)(A), which renders it unlawful, after November 6, 1986 for a person or other entity to hire for employment in the United States, an alien knowing that the alien is not authorized for employment in the United States. The penalty for this Count is a civil monetary penalty of \$2,500, and an order to cease and desist from violating Sec. 274A(a)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. Sec. 1324a(a)(1)(A), and/or Sec. 274A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. Sec. 1324a(a)(2).

2. 8 U.S.C. Sec. 1324a(e)(4) establishes in unambiguous terms the minimum and maximum fines for the types of violations plead in Count I.

3. The maximum fine possible for the facts plead in Count I is \$2,000. See 8 U.S.C. Sec. 1324a(e)(4)(i).

4. Count I, which pleads no prior violations, seeks a fine of \$2,500, or \$500 in excess of the maximum amount plainly provided under 8 U.S.C. Sec. 1324a(e)(4)(i).

5. This defect was orally called to Complainant's attention by this tribunal on March 30, 1990 and Complainant was requested to promptly amend Count I.

6. To date no such amendment has been filed.

7. Count I is so outrageously arbitrary and irrational on its face as to taint any further action by the tribunal even in the nature of a settlement under 28 CFR Sec. 68.12 or a default judgment under 29 CFR Sec. 68.8(b).

8. Accordingly, Count I is dismissed sua sponte without prejudice to Complainant to file allegations based on the same facts which are in accord with law.

SO ORDERED.

Dated: April 13, 1990.

WILLIAM L. SCHMIDT,
Administrative Law Judge