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

United States of America, Complainant v. Jennifer Dittman, d.b.a. Ready Room Restaurant, Respondent; 8 USC § 1324a Proceeding; Case No. 90100027.

**DECISION AND ORDER GRANTING COMPLAINANT'S MOTION FOR SUMMARY DECISION**

I. Procedural History and Relevant Facts

This proceeding was initiated on January 24, 1990, when Complainant filed a Complaint alleging violations of Title 8 of the United States Code section 1324a(a)(1)(B) and 8 C.F.R. sections 274a.2(b)(1)(i)(A), 274a.2(b)(1)(ii)(A) and (B) which provide that it is unlawful for a person or entity to hire for employment in the United States individuals without complying with the verification requirements as set forth in the enumerated statute.[1]

Respondent, acting pro se, filed an Answer to the Complaint on February 28, 1990. In its Answer to the Complaint, Respondent denied she hired the employee named in the single-count Complaint. She based her denial on the fact that the employee was not paid a ``regular hourly wage.''

Complaint mailed interrogatories and requests for admissions of fact and authenticity to Respondent on February 12, 1990. Postal Service Form 3811 (Domestic Return Receipt) shows that discover was received by Respondent on February 14, 1990. A cover letter

[1] The employer sanctions provisions of the Immigration Reform and Control Act make it unlawful to hire persons for employment in the United States without verifying their employment eligibility. 8 U.S.C. § 1324a(a)(1)(B).

The verification process has two steps. First, the employee must attest under penalty of perjury that he or she is a citizen, a lawfully admitted permanent resident, or an alien otherwise authorized to work in this country. This attestation must be made on a form designated by the Attorney General. 8 U.S.C. § 1324a(b)(2); 8 C.F.R. § 274a.2(b)(1)(i). Second, the employer must verify the employee's employment eligibility by examing specified documents and recording their identifying numbers on the same form designated by the Attorney General, the Form I-9. 8 U.S.C. § 1324a(b)(1); 8 C.F.R. § 274a.2(b)(1)(ii).

was sent to Respondent as part of the discovery package which informed her that the regulations required the discovery be returned to Complainant within thirty days. Respondent has failed to submit any responses to Complainant's discovery.

On March 27, 1990, Complaint, pursuant to 28 C.F.R. § 68.36, filed a Motion for Summary Decision. In its Motion, Complainant contended that Respondent's assertion that the person named in the Complaint was not an ``employee'' did not present a genuine issue of material fact. Complainant also contended that Respondent's admissions to the Notice of Intent to Fine (``NIF'') constituted a basis for concluding that there was no genuine issue of material fact in this case and that Complainant was entitled to a judgment as a matter of law. In support of its Motion, Complainant attached eight exhibits, including Form I-213, Record of Deportable Alien. Respondent has not filed a response to Complaint's Motion for Summary Decision.

II. Legal Standards in a Motion for Summary Decision

The federal regulations governing practice in employer sanctions administrative hearings authorize an Administrative Law Judge to ``enter summary decision for either party if the pleadings, affidavits, material obtained by discovery or otherwise . . . show that there is no genuine issue as to any material fact and that a party is entitled to summary decision.'' 28 C.F.R. § 68.36 (1989); see, also, Fed. R. Civ. Proc. Rule 56(c).

The purpose of the summary judgment procedure is to avoid an unnecessary trial when there is no genuine issue of material fact, as shown by the pleadings, affidavits, discovery and judicially-noticed matters. Celotex Corp. v. Catrett, 477 U.S. 317, 106 S. Ct. 2548, 2555, 91 L.Ed.2d 265 (1968). A material fact is one which controls the outcome of the litigation. See, Anderson v. Liberty Lobby, 477 U.S. 242, 106 S. Ct. 2505, 2510, 91 L.Ed.2d 202 (1986).

Rule 56(c) of the Federal Rules of Civil Procedure permits, as the basis for summary decision adjudications, consideration of any ``admissions on file.'' A summary decision may be based on a matter deemed admitted. See, e.g., Home Indem. Co. v. Famularo, 530 F. Supp. 797 (D.C. Col. 1982).

Any allegations of fact set forth in the Complaint which the Respondent does not expressly deny shall be deemed to be admitted. 28 C.F.R. § 68.8(c)(1) (1988). No genuine issue of material fact shall be found to exist with respect to such an undenied allegation. See, Gardner v. Borden, 110 F.R.D. 696 (S.D. W.Va. 1986) (``. . . matters deemed admitted by the party's failure to respond to a request for admissions can form a basis for granting summary judgment.).

III. <u>Legal Analysis Supporting Summary Decision</u>

The undisputed facts relied on by Complainant as the basis for this Motion are contained in Respondent's Answer to the Complaint. Complainant argues that there are two separate grounds for rendering summary decision in its favor. The first ground is that Respondent's sole defense that Mr. Ramirez-Talamantes is not an employee does not present a genuine issue of material fact.

IV. <u>Respondent Failed to Prepare Form I-9 for the Employee Named in Count 1</u>

The only question in this case is whether the person named in the Complaint was an employee of the Respondent. Respondent does not deny that she never completed a Form I-9 for the individual, Mr. Ramirez-Talamantes, but instead denies that she ever hired him as an employee. In both her request for hearing, as well as the Answer to the Complaint, Respondent denied that she was engaged in an employer-employee relationship with Mr. Ramirez-Talamantes, and that, based on this presumption, she was not required to complete a Form I-9 for Mr. Ramirez-Talamantes.

In both pleadings, however, Respondent admits that she gave money to Mr. Ramirez-Talamantes. Respondent also states that Mr. Ramirez-Talamantes performed tasks at the Ready Room restaurant and the adjacent R.V. Park owned by the Respondent in return for money received by him. This exchange of money and performance of work tasks clearly formed, as I see it, an employer-employee relationship between Respondent and Mr. Ramirez-Talamantes.

The Immigration and Naturalization Service (``INS'') has established the following definitions, which are quoted in pertinent part:

> The term `employee' means an individual who provides services or labor for an employer for wages or <u>other remuneration</u> . . . 8 C.F.R. 274a.1(f)
>
> The term `employer' means a person or entity . . . who engages the services or labor of an employee to be performed in the United States for wages or <u>other remuneration</u>. . . . 8 C.F.R. 274a.1(g).
>
> The term `employment' means any service or labor performed by an employee for an employer within the United States . . . . 8 C.F.R. 274a.1(h). (Emphasis supplied)

The emphasis on ``other remuneration'' in the other regulations is especially noteworthy in light of Respondent's contention that Mr. Ramirez-Talamantes was not an employee because she didn't pay him a ``regular hourly wage.'' Even assuming that this contention is factually true, the legal conclusion that Respondent attempts to derive from it is incorrect under the applicable regulations as cited above. The legal conclusion that Respondent urges is

incorrect because the working definition of ``remunerate'' is not limited to the formalities implied by a ``regular hourly wage.''

``Other remuneration,'' as used in the applicable regulations means some kind of payment or exchange in kind to a person for a service, loss or expense. See, e.g., Webster's Third New International Dictionary (1986). In this regard, I am not persuaded by Respondent's defense to liability in this proceeding on the grounds that she did not complete a Form I-9 because she did not view Mr. Ramirez-Talamantes as being an ``employee'' whom she paid a ``regular hourly wage.'' Even if Mr. Ramirez-Talamantes was not paid an ``hourly wage,'' it is clear to me that he was otherwise ``remunerated'' or compensated for the employment services that he rendered to Respondent.

In addition, reference to analogous case law regarding definitional conclusions of what constitutes an employer-employee relationship also supports a finding that Mr. Ramirez-Talamantes was an ``employee.'' For example, it has been held that where one person suffers or permits another to work for him, an employment relationship results, and it is immaterial that the parties have no intention of creating an employment relationship, since the application of the law does not turn upon subjective intent. Forrester v. Roth's I.G.A. Foodliner, Inc., 646 F.2d 413 (5th Cir. 1981); Brennan v. Partida, 492 F.2d 707, later app. 613 f.2d 1360 (5th Cir. 1974); (interpreting Title 29, United States Code, Section 203(g)). The term ``suffer or permit to work'' does not require a consciousness and condoning of the employment relationship, because employment is as much determined by circumstances as of consensual agreement. Gulf King Shrimp Co. v. Wirtz, 407 F.2d 508 (5th Cir. 1969).

This means that one may be an employer if he or she permits another to work for him or her, even though the employer has not expressly hired or employed him. Walling v. Jacksonville Terminal Co., 148 F.2d 768 (5th Cir. 1945). However, the employer must have knowledge or consent to the performance of the work. Fox v. Summit King Mines, Ltd., 143 F.2d 926 (9th Cir. 1944).

Thus, for the purposes of establishing liability, it is clear that Respondent admits that she knew of, and permitted, Mr. Ramirez-Talamantes to perform physical labor at both the restaurant and the R.V. Park. Respondent accepted a benefit from his work product_she admits in her request for hearing that she placed a wage value on his work product equal to what she would have paid another to perform the same tasks. Accordingly, I find and conclude that Mr. Ramirez-Talamantes was an employee within the meaning of IRCA.

Respondent's pleading, however, could also be construed as an argument that she did not view Mr. Ramirez-Talamantes as an ``employee'' because of the ``casual'' nature of the duties that he performed for her. The INS has promulgated specific regulations which exempt specified ``casual employees'' from the verification requirements of IRCA. See, 8 C.F.R. section 274a.1(h).

After reviewing the language of the regulations, however, I find that I do not view the working relationship that Respondent had with Mr. Ramirez-Talamantes to be one of ``casual employment by individuals who provide domestic service in a private home that is sporadic, irregular, or intermittent.'' See, 8 C.F.R. § 274a.1(h) (emphasis added). This exception to the general verification requirements for ``casual employment'' situations is quite limited, and is apparently best read to include only in-house domestic labor arrangements such as maids, housekeepers, or babysitters. See, e.g., Frye & Klasko, Employer's Immigration Compliance Guide, section 3.02(ii)(B), at 3-7. Accordingly, I reject this argument as implicitly raised by pro se Respondent, and conclude that Mr. Ramirez-Talamantes was not a ``casual employee.''

As a non-casual employee, Mr. Ramirez-Talamantes stated he began working for Respondent in 1988. In contrast, Respondent submitted a written hire date of June 1989 to INS agents. Despite the differences in the dates given by Mr. Ramirez-Talamantes and Respondent, it is clear that he began working for Respondent after November 6, 1986. In this regard, I find and conclude that Respondent was therefore required to complete and retain a Form I-9 for Mr. Ramirez-Talamantes. Respondent clearly admits that she did not complete a Form I-9 for Mr. Ramirez-Talamantes.

Thus, there is no issue of material fact, and the law is clear in requiring completion of the Form I-9 for persons hired after November 6, 1986. Summary judgment is appropriate as to the Complaint.[2]

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[2]Complainant also argued in its brief that an alternative ground for a summary decision is to impute an admission to Respondent for failure to respond to Complainant's Request for Admissions. Respondent received Complainant's Request for Admissions on February 14, 1990, along with a letter specifically advising her she was required to respond to the request within thirty days. 28 C.F.R. § 68.19(b) (1989) governs the response period for admissions. Respondent's answer was due to be received by Complainant not later than March 21, 1990. No response has been received to date. Such a situation generally results in an appropriate sanction for failure to comply with a discovery request. See, e.g., 28 C.F.R. § 68.21. I note however, that Complainant never filed an appropriate Motion to Compel, I never issued the standard procedural Order to Show Cause, and that Respondent is pro se. Accordingly, I reject in its entirety Complainant's alternative ground as constituting a basis upon which to render a Summary Decision.

V. Civil Penalties

Since I have found that Respondent has violated Section 1324a(a)(1)(B) of Title 8 in that Respondent hired, for employment in the United States, an individual without complying with the verification requirements in section 1324a(b) of the Act, and 8 C.F.R. Section 274a.2.(b)(1)(i)(A) and 274a.2(b)(1)(ii) (A) and (B) with respect to all counts of the Complaint, assessment of civil money penalties are required as a matter of law. See, section 1324a(e)(5).

Section 1324a(e)(5) states, in pertinent part, that:

> With respect to a violation of subsection (a)(1)(B), the order under this subsection shall require the person or entity to pay a civil penalty in an amount of not less than $100 and not more than $1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

The regulations reiterate the statutory penalty provision including the mitigating factors which should be taken into consideration for paperwork violations. See 8 C.F.R. § 274a.10(b)(2).

I have heretofore in a number of cases applied a mathematical formula in order to access civil money penalties for paperwork violations. See, United States of America v. The Body Shop, OCAHO Case No. 89100450, June 19, 1990; United States v. Felipe Cafe, OCAHO Case No. 89100151, October 11, 1989, aff'd by CAHO, November 29, 1989; United States of America v. Juan V. Acevedo, OCAHO Case No. 89100397, October 12, 1989; United States of America v. Le Merengo/Rumors Restaurant, OCAHO Case No. 89100290, April 20, 1990. In these decisions, I read the statute to authorize consideration of mitigating factors which could be used to reduce the maximum possible fine of $1,000 based on evidentiary presence or absence of these factors as set out in sec. 1324a(e)(5).

Relevant Facts

According to the Memorandum Re: Recommended Fine dated November 2, 1989 as submitted by Complainant, the following events relevant to this case occurred:

1. The Respondent has had no previous contact with the Immigration Service prior to being educated for IRCA on August 8, 1989.

2. On August 8, 1989, Respondent was contacted by Senior Border Patrol Agent Shirl Moore and informed of the requirements of IRCA. On that date, Agent Moore mailed Respondent the M-274 Handbook for Employers.

3. A return receipt signed by Respondent on August 9, 1990 shows she received the Handbook for Employers with Agent Moore's name and telephone number on the outside.

4. On August 23, 1989 Agent Moore arrested Ramirez-Talamantes at the Respondent's worksite. Agent Moore confirmed that he was the same Border Patrol Agent who had called Respondent two weeks prior. At this time, Respondent informed the agent that Ramirez-Talamantes had worked for her for about a year.

5. On August 25, 1989 when Agent Moore again visited the site, Respondent stated Ramirez-Talamantes had only worked for her for two months and denied making the previous statement. Respondent and Agent Moore signed a document which stated the date of hire was June 1989 and date of termination was August 23, 1989. (Exhibit 1 of Complainant's Motion for Summary Decision and Points and Authorities in Support of Motion for Summary Decision.)

6. At the same August 25 visit, Agent Moore pointed out that when Ramirez-Talamantes was interviewed at the Bakersfield Border Patrol office on August 23, 1989 he claimed he had been working for the company for about one year.

7. Respondent then informed Agent Moore that she had not prepared an Form I-9 for any of her employees.

8. At the same August 25 visit, Respondent stated she was going to meet with her bookkeeper about the Forms I-9, but her bookkeeper had been out of town.

9. At the same August 25 visit, Agent Moore again informed her of the IRCA requirements.

10. At the Inspection on August 30, 1989, Respondent presented four I-9 Forms and confirmed that these four forms were the only forms for the business.

11. Respondent did not complete any I-9 Forms until August 25, 1989.

12. Respondent hired two new employees after being informed of the IRCA requirements; one on August 8, 1989 and one on August 20, 1989. An I-9 Form was not completed for either of these new employees.

13. The company has five employees and according to a computer printout from the California State Board of Equalization, Bakersfield office, annual sales of approximately $105,000.

According to the Record of Deportable Alien of Mr. Ramirez-Talamantes, dated August 23, 1989, the additional relevant events occurred:

1. Ramirez-Talamantes claimed he had been working for the Respondent since November of 1988. Ramirez-Talamantes also claimed he worked 40 hours per week for Respondent. His work at the Ready Room included taking out the garbage, cleaning it on Mondays, and other work as needed.

2. Ramirez-Talamantes claims he was paid in cash every two weeks and states he receives about $170.

3. Ramirez-Talamantes stated he was never given a Form I-9 to complete or sign.

4. Mr. Ramirez-Talamantes is an unauthorized alien.

According to the Complainant's Motion for Summary Decision and Points and Authorities in Support of Motion for Summary Decision, the following additional relevant events occurred:

1. On August 30, 1990 at the INS sanctions compliance audit, Respondent did not present Forms I-9 for seven employees and two of the four Forms I-9 presented contained errors. Complainant states there was legally sufficient evidence to fine Respondent with these seven other failures to complete Forms I-9 and the two improper completion violations, for a potential fine of $10,000.

According to Respondent's response to the Notice of Intent to Fine dated December 18, 1989, the following events occurred:

1. Respondent stated she did not know Ramirez-Talamantes was an alien unauthorized to be employed in the United States.

2. Respondent stated she did not hire Ramirez-Talamantes. She stated she merely loaned him money to pay a fine.

3. Respondent stated that she allowed Ramirez-Talamantes to do yard work and twice had him clean out the back room in the restaurant to repay the loan because he had lost his job due to an injury.

4. Respondent stated the hourly wage was calculated only to put a value on Ramirez-Talamantes' services in order to determine when the loan would be repaid and no money was exchanged.

5. Respondent stated the Ready Room Restaurant burnt down on October 9, 1989 and was not rebuilt.

According to Respondent's Answer, the following additional relevant events occurred:

1. Agent Moore made several trips to California City and several phone calls to Respondent regarding Ramirez-Talamantes.

2. Respondent explained to Agent Moore she did not know Ramirez-Talamantes was an alien unauthorized to be employed in the United States.

3. Respondent denied having hired Ramirez-Talamantes although she admitted he did work for her to repay a loan.

4. Respondent stated Ramirez-Talamantes was not paid a regular hourly wage.

Legal Analysis

Complainant suggests the statutory maximum civil money penalty of $1000.00 for Count I. Respondent suggests a warning would be

more appropriate. There are, as indicated above, 5 specified grounds of mitigation.

It is undisputed that Respondent has had no prior IRCA violations. This factor should be fully mitigated.

Additionally, since it is undisputed that Ramirez-Talamantes is an unauthorized alien, this factor should not be mitigated.

With respect to Respondent's size of business, I view it as being a small business. The business had only 5 employees with approximate annual sales of $105,000. In light of this and the fact that the business is no longer in operation, this factor should be fully mitigated.

Seriousness of Violation

In The Body Shop, supra, and in Felipe, I presented my views of the gradations of seriousness of the violation as a consideration in determining the penalty amount. In those decisions, I held that the deliberate refusal as well as the negligent failure to fill out any part of the Form I-9 is a very serious violation. Failure to fill out any part of the Form I-9, for any reason, is ``serious'' because it completely defeats the purpose of the employment eligibility verification program.

As applied herein, it is clear that Respondent did not fill out any part of the Form I-9 for Mr. Ramirez-Talamantes. Her failure to complete the required Form I-9, however, was premised on her incorrect belief that Mr. Ramirez-Talamantes was not an ``employee.'' In essence, her failure to see that a Form I-9 was completed was a deliberate refusal to complete the Form as predicated on a partial good faith belief that she did not have to fill one out for Mr. Ramirez-Talamantes.

In this regard, I intend on mitigating in an amount of 20% on account of seriousness of violation because of the interrelationship between the nature of the violation (failure to complete a Form I-9 as premised on a confused understanding of her employment relationship with Mr. Ramirez-Talamantes) and the partial good faith of Respondent as analyzed and concluded infra.

Good Faith

Good Faith is not defined in the Immigration and Nationality Act nor in the employer sanctions regulations. See, 8 U.S.C. § 1101 & 1324a; 8 C.F.R. § 274a.1. There are, however, many traditional definitions of the term of art understood as ``good faith. Consistent with the analysis in The Body Shop and Felipe, I intend to apply in the case at bar a standard which requires a showing of an honest intention to exercise reasonable care and diligence to ascertain and comply with the record-keeping provisions of IRCA.

It is undisputed by the parties that Respondent was informed of the IRCA requirements. She received two educational contacts, one on August 8, 1989, the other on August 25, 1989; a copy of the M-274 Handbook for Employers, which outlines the obligations of employers on how to achieve compliance with IRCA; and numerous contacts by Agent Moore regarding the employment of Ramirez-Talamantes.

Despite these general educational contacts and telephone conversations, Respondent, as indicated above, did not understand her relationship to Mr. Ramirez-Talamantes to be an employer-employee relationship within the meaning of IRCA's employment verification requirements. Although there may be some question as to the reasonableness of Respondent's assertions, especially after the educational contacts, I do not view the record before me as indicating that Respondent did not honestly, albeit incorrectly, view her relationship with Mr. Ramirez-Talamantes as falling outside the ambit of IRCA.

Respondent has continually maintained that Ramirez-Talamantes was not an employee. Moreover, there is nothing in the record to suggest that Respondent was specifically educated as to the definition of ``employer,'' ``employee,'' and ``employment,'' and how these terms apply to her relationship with Ramirez-Talamantes.

Further, I note that at the August 30, 1989 Inspection, Respondent produced four Form I-9s. I view this effort to comply with IRCA's verification requirements when applied to her other employees as supporting her contention that she did not have to complete a Form I-9 for Mr. Ramirez-Talamantes since she did not view their employment relationship in a formal employer-employee mode. In other words, Respondent's failure to complete a Form I-9 for Mr. Ramirez-Talamantes was honestly, but defectively, premised on her inadequate understanding of the applicability of the verification requirements of IRCA to all employment relationships as defined by the statute, regulation and relevant case law.

In this regard, however, while Respondent may have had an ``honest intention,'' I am not convinced that Respondent acted with reasonable care and diligence in her effort to actually ascertain what IRCA required. In my view, Respondent was given sufficient opportunity to ascertain her responsibilities under IRCA, and if she was unclear as to her obligations regarding her relationship with Mr. Ramirez-Talamantes, she had ample time to request clarification or further explanation.

In conclusion, I will mitigate the good faith factor by twenty percent because I find that Respondent had an honest intention to

comply with the IRCA requirements, even though her efforts to ascertain more precisely the nature of her obligations with respect to Mr. Ramirez-Talamantes were not, as I see it, sufficiently careful or diligent to warrant full mitigation. As was stated in my recent decision in The Body Shop: ``An `honest intention' is emptied of content when divorced from a communally recognizable (`reasonable') effort to comply with an experimental new law.''

Ultimate Findings of Fact and Conclusions of Law

Based upon the foregoing analysis, I conclude:

1. As previously found and discussed, I determined that no genuine issue as to any material facts have been shown to exist with respect to Count I of the Complaint; and, that therefore, pursuant to 8 C.F.R. sec. 68.36, Complainant is entitled to a summary decision as to this count of the Complaint as a matter of law.

2. That Respondent violated 8 U.S.C. sec. 1324a(a)(1)(B) in that Respondent hired, for employment in the United States, the individuals identified in Count I without complying with the verification requirements in sec. 1324a(b), and 8 C.F.R. sec. 274a.2(b)(1)(i)(A) and (ii) (A) & (B).

3. That determination of civil monetary penalty for violations of the verification requirements of the Immigration Reform and Control Act are discretionary decisions that are guided and structured by factors of mitigation as set out by Congress in section 1324a(e)(5) of Title 8 of the United States Code.

4. In determining the amount of penalty, due consideration shall be given to the size of the business of the employer, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

5. That Respondent shall receive full mitigation of penalty for Count I because it operated a small business and because she has no prior IRCA violations.

6. That Respondent shall receive no mitigation of penalty for Count I because she employed an unauthorized alien.

7. That Respondent shall receive 20% mitigation of penalty for Count I for seriousness of violation because although Respondent completely failed to fill out any portion of a Form I-9 for Mr. Ramirez-Talamantes, her failure to do so was based in part on her partial good faith belief that Mr. Ramirez-Talamantes was not an ``employee.''

8. That Respondent shall receive 20% mitigation of penalty for Count I for good faith because Respondent demonstrated an honest intention to fulfill the obligations imposed by IRCA but failed to

exercise reasonable care and diligence to ascertain and comply with IRCA's verification requirements.

9. Accordingly, I find that the appropriate amount of civil monetary penalty to be assessed against the Respondent for Count I of the Complaint is five-hundred and sixty-eight dollars ($568.00).

10. That, pursuant to 8 U.S.C. sec. 1324a(e)(6) and as provided in 28 C.F.R. sec. 68.25, this Decision and Order shall become the final decision and order of the Attorney General unless within thirty (30) days from this date the Chief Administrative Hearing Officer shall have modified or vacated it.

**SO ORDERED:** This 9th day of July, 1990, at San Diego, California.

ROBERT B. SCHNEIDER
Administrative Law Judge