

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER
ADMINISTRATIVE REVIEW AND FINAL AGENCY ORDER MODIFYING THE
ADMINISTRATIVE LAW JUDGE'S JUDGMENT BY DEFAULT

United States of America, Complainant, v. Patricio Torres, Individually and d/b/a Superior Roof Services, Respondent; 8 USC 1324A Proceeding; Case No. 89100134.

**Modification by the Chief Administrative Hearing Officer of the
Administrative Law Judge's Judgment by Default**

The Honorable Jay R. Pollack, the Administrative Law Judge assigned to this case by the Chief Administrative Hearing Officer, issued a Judgment by Default on July 27, 1989.

Pursuant to Title 8, United States Code, Section 1324a(e)(6) and 28 C.F.R. 68.52, the Chief Administrative Hearing Officer, upon review of the Administrative Law Judge's Order and in accordance with the controlling section of the Immigration Reform and Control Act of 1986, (hereinafter IRCA) supra, modifies the Administrative Law Judge's Order.

In the Judgment by Default, the Administrative Law Judge ordered:

(1) That Respondents Patricio Torres, Individually and d/b/a Superior Roof Services, cease and desist from violations of Sections 274(a)(1) (A) and (B) of the Immigration and Naturalization [sic] Act [8 U.S.C. 1324a(a)(1)(A) and (B)].

According to 8 U.S.C. 1324a(e)(4)(A), the order of the administrative law judge for violations of subsection (a) of IRCA shall require the person or entity to cease and desist from such violations "[w]ith respect to a violation of subsection (a)(1)(A) or (a)(2)" of IRCA. Thus, the statute provides for a cease and desist order to be issued for hiring, recruiting and referral violations. However, no such statutory authority exists for the issuance of cease and desist orders for violations of the employment verification system (subsection (a)(1)(B)).

Accordingly, paragraph (1) of the Administrative Law Judge's order in the Judgment by Default is modified as follows:

(1) That Respondents Patricio Torres, Individually and d/b/a/ Superior Roof Services, cease and desist from violation of Section 274A(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C. 1324a(a)(1)(A)].

In addition, included in the Conclusions of Law, there are two citations to the Immigration and Nationality Act which were cited incorrectly. Accordingly, the Conclusions of Law of the Judgment by Default are modified as follows to accurately cite the provisions of the Immigration and Nationality Act:

1. Respondents have violated Sections 274A(a)(1)(A) of the Act [8 U.S.C. 1324a(a)(1)(A)] with regard to the hiring of Daniel Torres.

2. Respondents have violated Section 274A(a)(1)(B) of the Act [8 U.S.C. 1324a(a)(1)(B)] by failing to prepare a Form I-9 for twenty-five (25) employees.

The remainder of the Administrative Law Judge's Judgment by Default is hereby affirmed.

SO ORDERED.

Dated: August 18, 1989.

RONALD J. VINCOLI
Acting Chief Administrative Hearing Officer.