

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

UNITED STATES OF AMERICA,)
Complainant,)
)
v.) 8 U.S.C. §1324a Proceeding
) Case No. 93A00220
WILLIAMS PRODUCE, INC.,)
Respondent.)
_____)

ORDER

(August 3, 1994)

Pursuant to the Second Prehearing Conference Report and Order dated June 28, 1994, the parties on August 1, 1994, filed seven paragraphs of fact stipulations. Paragraph 8 of the joint filing recites that Respondent's officers, Ray Williams and Joey Tucker, "will appear at the evidentiary hearing and be available for examination by the Complainant as adverse witnesses."

The quoted understanding between the parties implicitly responds in the affirmative to the inquiry in the June 28 Report and Order as to whether after preparing the fact stipulations the parties anticipate the need for a confrontational evidentiary hearing. Accordingly, the hearing will be held in or around Atlanta, Georgia, on the dates previously agreed and reserved, Tuesday, October 4, 1994 and, as necessary, the morning of Wednesday, October 5, 1994.

On August 1, 1994, by facsimile transmission, mail copy to follow, Respondent filed a Position Statement which outlines the inferences it proposes to be drawn from the stipulated facts, reiterates the affirmative defenses previously set forth in its answer to the complaint, and requests an evidentiary hearing. It appears from Respondent's filing that its issues are essentially legal questions to be addressed by counsel in oral argument and on brief. However, Respondent claims that it "complied or attempted to comply with the spirit if not the letter of the law" with respect to satisfying Form I-9 employment

authorization verification procedures. To the extent that Respondent intends by that defense to assert substantial compliance with I-9 paperwork requirements, it may be necessary to review at hearing some or all of the Forms I-9 implicated at counts II-IV of the complaint. Reserving judgment on Respondent's affirmative defenses and on the inferences to be drawn from the agreed facts, it appears that the principal focus at the evidentiary hearing will be on testimony and exhibits, if any, on the issue of the appropriate civil money penalty.

The Third Telephonic Prehearing Conference will be held, as previously scheduled, at 10:00 a.m., Monday, August 22, 1994. At the prehearing conference, the parties will be expected to propose means of simplifying the hearing procedures in order to reduce document handling and to avoid dispute about authenticity of documents.

SO ORDERED.

Dated and entered this 3rd day of August, 1994.

MARVIN H. MORSE
Administrative Law Judge