

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

United States of America Complainant, v. Patricio Torres, Individually and d/b/a Superior Roof Services, Respondents; U.S.C. 1324a Proceeding; Case No. 89100134.

**JUDGMENT BY DEFAULT**

On March 10, 1989, a complaint was issued by the United States of America alleging that Respondents Patricio Torres, Individually and d/b/a Superior Roof Services, engaged in certain violations of 8 U.S.C. 1324a. On March 22, 1989, the Executive Office for Immigration Review, through the Acting Chief Administrative Hearing Officer served a Notice of Hearing on Complaint Regarding Unlawful Employment. In that Notice Respondents were advised that they should file an answer within 30 days of the receipt of the Complaint and that if they failed to file a timely Answer they may be deemed to have waived their right to appear and contest the allegations set forth in the complaint and that an Administrative Law Judge may enter a judgment by default together with any and all appropriate relief.

A timely answer was not filed. On May 1, 1989, counsel for the Complainant informed me in writing that Respondents may have mistakenly filed an answer with the United States District Court. Counsel further stated that the Government would not oppose a late filing by Respondents. Accordingly, on May 11, 1989, I issued an order to show cause allowing Respondents until May 25, 1989 to file their answer to the complaint. On June 5, 1989, I received a letter sent by Respondents on April 14, to the Federal Court seeking a hearing. However the purported answer failed to deny any allegation of the complaint. On June 12, 1989, the Government filed a Motion For Default, or alternatively, Motion for Summary Decision. As of this date, no response to the Government's Motion has been received.

Respondents' request for a hearing was not a sufficient answer to the complaint. Accordingly, on July 6, 1989 I ordered Respondents to show cause why judgment by default along with all appropriate

relief should not be granted. In the alternative, Respondents were given the opportunity to file a proper answer admitting or denying each allegation of the complaint. However, no response to my order was received.

I find that the allegations of the Complaint have not been denied and are, therefore, deemed to be admitted as true. Section 68.6 of the Rules of Practice and Procedure for the Office of The Chief Administrative Hearing Officer. 28 C.F.R. Part 68.

Upon the entire record I make the following:

#### Findings and Conclusions

As set forth in the Complaint, Respondents have engaged in the following conduct:

(1) After November 6, 1986, hired for employment in the United States Daniel Torres, knowing Daniel Torres was an alien not lawfully admitted for permanent residence or was not authorized by the Act or the Attorney General to accept employment.

(2) After November 6, 1986, failed to properly verify on a verification form, designated by the Attorney General as Form I-9, by failing to complete Form I-9 for twenty-five (25) employees (named in the exhibits to the complaint).

#### Conclusions of Law

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

Accordingly, IT IS HEREBY 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 Act [8 U.S.C. 1324a(a)(1) (A) and (B)].

(2) That Respondents pay a civil money penalty in the amount of \$1,000 for the unlawful hiring of Daniel Torres and \$11,250 for the failure to prepare the Form I-9s, for a total of \$12,250.

(3) That the hearing previously postponed indefinitely is hereby cancelled.

This Judgment by Default is the final action of the Administrative Law Judge in accordance with Section 68.51(b) of the Rules as provided in Section 68.52 of the Rules, and 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 Office shall have modified or vacated it.

Dated: July 27, 1989.

JAY R. POLLACK  
Administrative Law Judge