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

May 28, 1996

UNITED STATES OF AMERICA,)
Complainant,)
)
v.) 8 U.S.C. 1324c Proceeding
) Case No. 93C00208
ARMANDO ALVAREZ-SUAREZ,)
Respondent.)
_____)

ERRATA

The Decision and Order herein, dated May 16, 1996, is hereby amended in the following manner.

On page 2, paragraph 3, line 1 the word "resignation" is hereby deleted and the word "retirement" is substituted therefore.

JOSEPH E. MCGUIRE
Administrative Law Judge

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DECISION AND ORDER

Appearances: Zsa Zsa DePaolo, Esquire, Immigration and Naturalization Service, United States Department of Justice, Seattle, Washington, for complainant;
Whitney Rupprecht, Esquire, Seattle, Washington, for respondent.

Before: Administrative Law Judge McGuire

Background

On November 19, 1993, the United States Department of Justice, Immigration and Naturalization Service (complainant or INS), filed the single-count Complaint at issue with the Office of the Chief Administrative Hearing Officer (OCAHO).

In that count, it was alleged that Armando Alvarez-Suarez (respondent or Alvarez) had provided two (2) documents which had been forged, counterfeited, altered and falsely made namely, an I-551 Resident Alien Card #A90012445 in the name of Guadalupe Figueroa-Torres (Guadalupe), and an I-551 Resident Alien Card #A90014441 in the name of Enrique Vargas-Garcia (Enrique), that

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respondent did so after November 29, 1990, for the purpose of satisfying a requirement of the Immigration and Naturalization Act (INA), and that in having done so he violated the provisions of 8 U.S.C. §1324c(a)(2).

Complainant assessed civil money penalties totalling \$3,000, or \$1,500 for each of those two (2) alleged infractions.

On December 9, 1993, a Notice of Hearing on Complaint Regarding Civil Document Fraud, together with a copy of the Complaint, were sent by certified mail to respondent's counsel, Whitney Rupperecht, Esquire.

On that date, also, this matter was assigned to Administrative Law Judge Robert B. Schneider.

Following the filing of respondent's Answer on March 1, 1994, the matter was set for hearing in San Francisco, California on June 20, 1994.

Motion practice and discovery activities resulted in this case having been continued generally from that setting and this matter was subsequently heard before Judge Schneider in Seattle, Washington on August 15-17, 1994.

On February 7, 1995, following the resignation of Judge Schneider, this case was reassigned to the undersigned.

Summary of Evidence

Complainant's case in chief was sequentially comprised of the hearing testimony of INS Special Agent Mark A. Steele, that of Enrique Vargas-Garcia, Guadalupe Figueroa-Torres, Linda K. Fuller-Cox, INS Special Agent Abalardo Gonzalez, and the information contained in 13 documents which were marked and entered into evidence as Complainant's Exhibits 1 through 13.

Respondent's evidence consisted of his testimony, and that of Virginia Rider, a handwriting and handwriting analysis expert, whose testimony was taken out of sequence in complainant's case in chief, Joseph A. Rodriguez, whose testimony was also taken in complainant's case, Ana Fernandez-Isla, an employee of respondent's counsel of record, Whitney Rupperecht, Esquire, as well as the infor-

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mation contained in some 34 documents which were placed into evidence as Respondent's Exhibits 30, 32, 32A through O, 33, 33A through O, and 34.

From those sources, the following facts have been made available.

Mark A. Steele, an INS Special Agent in that agency's Seattle, Washington field office, testified that in early March, 1992 Sylvia McKeen, a representative of the Tacoma Community House, an outreach agency located in Tacoma, Washington, contacted his office to report that two (2) Hispanic individuals "had been victimized by a fraudulent document dealer" (T. 75). The investigation of that matter was assigned to him and INS Special Agent Gonzalez.

Shortly thereafter, he and Special Agent Gonzalez went to the Tacoma Community House and met with Ms. McKeen, who identified the purchasers of the fraudulent documents as Enrique Vargas-Garcia and his wife, Guadalupe Figueroa-Torres. The vendor was identified as Armando Alvarez, the respondent. The purchasers told her that Alvarez had delivered work eligibility documents to them and that their signatures were already on the documents, a circumstance which aroused their suspicions. Ms. McKeen arranged a meeting on March 13, 1992 between Guadalupe Figueroa-Torres and Enrique Vargas-Garcia and Special Agent Gonzalez and himself at the Melaque Restaurant, in Milton, Washington, which is a 40-minute drive from Seattle.

He further testified that he and Special Agent Gonzalez met with those two (2) persons at the Melaque Restaurant on that date. Also present at the six (6)-person meeting were two (2) other individuals, J. Guadalupe Sanchez-Gonzalez and Armondo Beltran-Gonzalez, who also wished to speak to the special agents concerning their work document dealings with Alvarez.

The two (2) complaining witnesses, Enrique Vargas-Garcia (Enrique) and Guadalupe Figueroa-Torres (Guadalupe), restated the information concerning Alvarez which they had given earlier to Ms. McKeen and a joint sworn affidavit was taken from them (Complainant's Exh. 1), as well as one from J. Guadalupe Sanchez-Gonzalez and Armondo Beltran-Gonzalez (Complainant's Exh. 11). Those joint sworn affidavits were taken by Special Agent Gonzalez, who is fully fluent in Spanish, and English translations were attached to each affidavit. No threats were issued to any of the four (4)

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affiants, nor were any promises extended, and all were advised that since they had admitted having entered the United States illegally from Mexico, they were being placed in deportation procedures.

On that date, also, the two (2) complaining witnesses, Enrique and his wife, Guadalupe, provided to him the four (4) documents which they stated they had purchased from respondent, two (2) Resident Alien Cards, Forms I-551, or "green cards", also known within the immigrant community as "micas", or "papers", in the names of Enrique Vargas-Garcia (Complainant's Exh. 2) and Guadalupe Figueroa-Torres (Complainant's Exh. 3), and two (2) Social Security cards, which were also in the names of Enrique Vargas-Garcia (Complainant's Exh. 4) and Guadalupe Figueroa-Torres (Complainant's Exh. 5).

Special Agent Steele also testified that upon examining those four (4) documents he immediately ascertained that they were counterfeit (T. 88).

On March 18, 1992, he forwarded those four (4) documents to the INS Forensic Document Laboratories in McLean, Virginia for forensic analyses (Complainant's Exh. 6). That laboratory concluded that the four (4) documents were in fact counterfeit and also determined that the fingerprints on the counterfeit Resident Alien Cards were not those of either Enrique Vargas-Garcia or Guadalupe Figueroa-Torres, whose specimen fingerprints had also been previously furnished to the forensic laboratory, along with the documents (Complainant's Exhs. 7, 8).

Shortly after the March 13, 1992 meeting, Enrique and Guadalupe provided to Special Agent Steele a two (2) page typed document entitled "Cuestionario" containing 30 questions and corresponding answers, all in Spanish, which complainant had translated into English by an independent firm, Dynamic Language Center Ltd. (Complainant's Exh. 9). They advised Special Agent Steele that they had been given that document by Alvarez, who had instructed them that they were to familiarize themselves with those questions and answers, explaining that the INS personnel would likely ask them those questions in interviews, and that they were to furnish those answers to the immigration agents (T. 102-106).

Special Agent Steele also stated that he secured a sworn affidavit from Linda K. Fuller-Cox, the owner of the Melaque Restaurant, at

her place of business on June 19, 1992 (Complainant's Exh. 10) (T. 109, 110).

He also testified that in addition to the charges made by Enrique and Guadalupe against Alvarez based upon his having sold them counterfeit immigration documents, four (4) other persons told him that they had also paid money to Alvarez and had either received unsatisfactory documents or had not received the promised work authorization documents. Two (2) of those persons were J. Guadalupe Sanchez-Gonzalez and Armondo Beltran-Gonzalez, whose names were mentioned earlier, who told Steele that they had met respondent in the Melaque Restaurant in September, 1991, having been introduced to him by the owner of the restaurant, "Senora Linda" (T. 147-151). They also told Steele that at that meeting respondent had told both men "that for \$2,000 each, he could get us a 'mica' legally, together with a Social Security card" (T. 149).

Steele identified Isauro Benitez-Zuniga (Complainant's Exh. 12) and Jose de Jesus Guitron-Barajas (Complainant's Exh. 13) as the fifth and sixth persons who provided sworn affidavits in which they also stated that they had paid money to respondent for identity and work eligibility documents.

Steele also testified that all six (6) persons who claimed to have given money to Alvarez for work documents had been granted temporary employment authorizations by INS in order to ensure their availability to testify in any legal proceedings. However, no grant of temporary employment authorization had been discussed with any of those six (6) persons prior to their having given sworn affidavits, nor were any promises of any type extended to any of them prior to those sworn statements having been secured (T. 157, 158).

Complainant's second witness was Enrique Vargas-Garcia (Enrique), who is 30 years of age and lives in Tacoma, Washington with his wife, Guadalupe Figueroa-Torres (Guadalupe), and their daughter, Maria Lewis Martha Figueroa. He testified that he was born in Mexico and that he and his wife and daughter had entered the United States illegally from Tijuana, Mexico in February, 1991.

He and his family proceeded to Anaheim, California where he worked as a lawn maintenance and construction worker before relocating to the Tacoma, Washington area in September, 1991. Upon arriving there, he worked as an agricultural worker for seven (7)

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months at an hourly salary of \$5.25. No work eligibility documents had been requested by his employer(s) and he was paid in cash.

In October, 1991 he and his wife were given the telephone number of a person from whom they were told they could obtain work eligibility documents. Upon calling that number, he reached the respondent, Armando Alvarez, at the latter's office. Alvarez told him that he was an attorney, that he "had done papers for many people" and that his charge for providing him with a Social Security card and a "mica", or "green card", was \$2,000. Alvarez asked him to come to his office in Puyallup, Washington, and they made an appointment to meet later on in that month, October, 1991 (T. 165, 166).

On the agreed upon date, he and his wife and daughter went to Alvarez's office, which was in a Toyota dealership. Alvarez again told him that he was an attorney and that he was one of the owners of the Toyota Puyallup agency. He also testified that at that first meeting, which was attended by only four (4) persons, his family of three (3) and Alvarez, he told Alvarez that he was in the United States illegally, whereupon Alvarez "told me not to worry about it, that he was going to take care of my Social Security and mica." He also asked Alvarez if he would take less than \$2,000 for the documents and he refused to do so. The affiant then told Alvarez that he would think about it for a few days and let him know (T. 167-169).

A few days later, he telephoned Alvarez at the auto agency and accepted his offer to provide two (2) sets of documents for \$4,000, or \$2,000 for each set. They returned to the agency to meet with Alvarez for a second time later in October, 1991. At that meeting, Alvarez explained how the documents would be gotten. He said that he would wait until he had documentation requests from 10 persons or so and he would then secure Mexican passports for them at the Mexican Consulate in Seattle. Afterwards, respondent would take those passports with him to Guadalajara City and "get us in as tourists." Toward that end, Alvarez had him and him wife fill out Mexican passport application forms on that visit (T. 169, 170).

He also testified that at that second meeting, Alvarez made arrangements with them to meet on the parking lot of the Melaque Restaurant later that month in order to visit the office of the Mexican Consulate in Seattle (T. 171).

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They and their daughter met Alvarez later that month on the parking lot of the restaurant and were joined by two (2) other persons, an unidentified man for whom Alvarez was also obtaining a "mica" and a Social Security card, and the sister of that unidentified man. The party of six (6) was driven to the Mexican Consulate in Seattle by Alvarez in a Toyota four (4) door, grey vehicle owned by the dealership. Upon arriving, they visited a photo shop across from the consulate in order to obtain photographs for their Mexican passports. While in the studio, he gave Alvarez \$2,400 in cash, in \$100 and \$50 bills, "in order to start the paperwork" and the remaining \$1,600 for the two (2) sets of documents was to be paid to Alvarez when the "micas" and Social Security cards were ready. He did not see anyone else give Alvarez money on that occasion because "he pushed us to one side so that we couldn't see anything" (T. 173).

He further testified that Mexican passports and I.D. cards were obtained that day for himself and his wife, as well as for the other gentleman in their group, whose name he did not know. But the three (3) passports were retained by Alvarez because he said he was taking those documents to Guadalajara in order to arrange for the passports being stamped or marked to show that they had entered the United States as tourists. The group then returned to the parking lot of the Melaque Restaurant.

He and his wife and daughter met again with Alvarez for the fourth time towards the end of October 1991 in the latter's office at the Toyota dealership in Puyallup. Alvarez had telephoned him earlier to advise him that he could not obtain the promised documents but that there was a simpler and faster method of obtaining them. The witness testified that he became angry since he had paid Alvarez for documents which he had been told were legal and respondent had not produced those documents as agreed upon (T. 175, 176).

Instead, Alvarez suggested an alternate plan and provided him with a document captioned "Cuestionario" (Complainant's Exh. 9), which contained 30 questions which INS personnel were most likely to ask him in an interview conducted in order to issue him work authorization documents, together with answers to those questions which would satisfy the INS agents.

As part of that backup plan which Alvarez proposed, he would inform the INS of the location of factories at which illegal immigrants

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were working and receive a provisional work permit for having informed on other illegal Mexican immigrants.

He rejected Alvarez's suggestion to submit to an INS interview in which he would satisfactorily answer the questions and/or serve as an informant and insisted instead that Alvarez obtain for him the documents which he had ordered. Alvarez then told him that he would continue his efforts to have his Mexican passport marked to show that he had entered the United States as a tourist, as they had discussed initially, but that that procedure would take months (T. 176).

He testified that he did not hear again from Alvarez for several months, or until March, 1992, when Alvarez telephoned to advise that the "micas" and Social Security cards were ready and that he "needed the money" (T. 178). They met again, for the fifth time, at Alvarez's office on the following day. Alvarez removed two (2) Social Security cards from his briefcase, along with a piece of paper which Alvarez told him was a receipt for the two (2) blank Social Security cards which he and his wife signed at Alvarez's request. The receipt contained writing in English, a language which he can neither speak nor read, and Alvarez had him sign the receipt paper and one of the Social Security cards. His wife, who cannot speak or read English, either, also signed such a receipt paper, as well as her blank Social Security card (T. 178).

Alvarez told him that their "micas" were ready, also, and showed him his, which was pink and which contained a signature which was not his, whereupon he told Alvarez that the document was false and that he would pay for only one (1) set of documents (T. 186).

He did not obtain the documents, however, since he had brought only \$800 to that meeting, instead of the agreed upon \$1,600, and Alvarez would not deliver the documents until he was paid fully. He and Alvarez agreed to meet on the following day, March 6, 1992, at 10:30 a.m. on the parking lot of a Safeway store in Milton, Washington. They did so, and he and his wife got into Alvarez's car and gave him the rest of the money and Alvarez then gave them the two (2) sets of "micas" and Social Security cards and that concluded their five (5)-minute, sixth and final meeting (T. 187, 188).

After receiving those (4) documents from Alvarez, he took them to the Tacoma Community House in order to determine whether they

were genuine. A lady there examined the documents and told them that they were not genuine, that they had been tricked and that she would notify INS so that Alvarez could be arrested (T. 190–192).

That evening, he and his wife went to the Melaque Restaurant to see “Mrs. Linda”, the owner, because they wanted to alert two (2) young men named Armondo and Guadalupe, for whom Alvarez was then also obtaining work documents, that Alvarez had tricked them by having provided them with counterfeit documents (T. 192–193).

A few days later, on March 12 or 13, 1992, he and his wife met Special Agents Steele and Gonzalez at the Melaque Restaurant, where they were joined by J. Guadalupe Sanchez-Gonzalez and Armondo Beltran-Gonzalez.

The witness identified the four (4) work eligibility documents provided to him and to Guadalupe by Alvarez (Complainant’s Exhs. 2, 3, 4, and 5) as being the same ones which he had given to Special Agent Steele on that date.

Guadalupe Figueroa-Torres (Guadalupe), complainant’s next witness, testified that she is 39 years of age, lives in Tacoma, Washington and entered the United States illegally in February, 1991 in the company of her husband, Enrique Vargas-Garcia, and her daughter and proceeded to Anaheim, California. During her seven (7)-month stay there, she secured work caring for children and doing housecleaning (T. 278).

In September, 1991 they moved to Fife, Washington, where she worked as an agricultural laborer at an hourly salary of \$4.75, which was paid in cash. She wanted to obtain other and better paying work, but did not possess the work eligibility documents which employers routinely requested. In late September or early October, 1991, she and her husband met a person who told them that the respondent, Alvarez, who was described as an attorney “that worked for immigration,” could help them obtain legal work documents. That person gave them Alvarez’s telephone number and her husband telephoned him about four (4) days later, confirmed the fact that Alvarez could provide the documents and made an appointment to meet in Alvarez’s office. They went to see Alvarez at his office in an automobile dealership, which Alvarez told them he owned. They told Alvarez at the outset that they had entered the United States illegally (T. 281, 282).

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She testified that the sole purpose of their visit to meet Alvarez had been that of obtaining legal work documents. They did not go there to buy a car, new or used, since they then fully owned a used automobile which was performing satisfactorily. Moreover, they had no discussion with Alvarez at any time concerning the purchase of an automobile (T. 362).

She stated that on that first meeting Alvarez told them that the cost of furnishing to each of them "the documents we needed to have in order to work here legally" was \$2,000 (T. 283). They were each to pay \$1,200 as down payments, and Alvarez explained that it would take some time for them to secure Mexican passports from the Mexican Consulate. He would then take those passports to Guadalajara, Mexico and arrange to have it appear that she and her husband had entered the United States as tourists (T. 283, 284).

She further testified that Alvarez provided them with a two (2)-page form containing questions and answers. The questions were those which the INS personnel would likely ask them in an interview which Alvarez would arrange (T. 285, 286—Complainant's Exh. 9).

They and their daughter were driven to the Mexican Consulate in Seattle in October, 1991 by Alvarez in order to get passports. Two (2) others were in their party, a girl named Teresa and her brother, for whom Alvarez was also securing papers. After arriving in Seattle and prior to going to the consulate, Alvarez took them to a photo studio located across the street from the consulate for passport photos and while there her husband gave Alvarez \$2,400 "so that he could start the paperwork." She testified that Alvarez stated that "he needed all the money because he needed to entertain some immigration people, to take them out to dinner." (T. 285).

Some three (3) days after that visit to the Mexican Consulate in Seattle, Alvarez telephoned and informed them that their work documents would be delayed because his work at the automobile dealership wouldn't permit him to go to Guadalajara. Instead, they were to come to his office and become familiar with interview questions which the INS personnel would likely ask them, as well as the answers he instructed them to give, and in that way "we would obtain the documents a little faster" (T. 301).

She also testified that they last heard from Alvarez in March, 1992. He telephoned to advise that he had gotten their documents, which consisted of two (2) sets of I-551 cards and two (2) sets of Social Security cards. She and her husband were to come to Alvarez's office and bring the rest of the money. They did so on March 5, 1992, but brought only \$800, for one (1) set of documents. Alvarez refused to give them the documents, which consisted of two (2) "micas" and two (2) Social Security cards, and arrangements were made to have them bring the rest of the money and meet Alvarez on the following day on the Safeway parking lot in Milton, Washington.

She identified those documents, consisting of two (2) "micas", or "green cards", which contained their signatures prior to delivery, and which had previously been marked and entered into evidence as Complainant's Exhibits 2 and 3, as well as the two (2) Social Security cards, which were marked and entered as Complainant's Exhibits 4 and 5. Alvarez told them that he had gotten those four (4) documents "from the people from immigration" (T. 304-306).

Upon seeing their signatures on the "micas" prior to delivery to them, they asked Alvarez to explain that, since she and her husband had not signed those cards. Alvarez "got angry and he said, yes, we had but he was angry. He said it was a done deal and that we could not back up" (T. 307).

On the next day, March 6, 1992, they met Alvarez on the Safeway parking lot in Milton and her husband paid him the rest of the money in exchange for the four (4) documents. Because she and her husband became suspicious about their signatures having already been on the "micas", or "green cards", before Alvarez delivered those cards to them, they decided to take the cards to the Tacoma Community House "so they could tell us there whether they were legal or not" (T. 307).

Upon reaching the Tacoma Community House, a male worker there compared their documents with his and told them that theirs "were not legal." They spoke to a woman named Sylvia there that day, also (T. 208), who notified the INS. Arrangements were made for her and her husband to meet Special Agents Steele and Gonzalez at the Melaque Restaurant on a later date in March, 1992 (T. 310).

On cross-examination, respondent's counsel inquired whether the signature which appeared "at the bottom of the page" of a document

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which he did not identify further for the record, was in fact her signature and she denied that it was. Presumably, that document was subsequently admitted as Respondent's Exhibit 33, a single-page, undated, six (6)-paragraph, 18-line, 160-word document captioned Agreement, the bottom line of which purportedly contained the signature of the witness, identified as Guadalupe Figueroa-Torres, and notarized by one Don W. Pelley, identified in respondent's subsequent hearing testimony as one of the managers at his employer firm, Toyota Puyallup, in Puyallup, Washington (T. 737).

Respondent's counsel attempted to impeach Guadalupe based upon a prior inconsistent statement namely, her deposition testimony given in respondent's counsel's office on July 25, 1994, or some 23 days earlier, in which she acknowledged at that time that the signature on that document was in fact hers (T. 372, 373).

The witness acknowledged that she had testified earlier that the signature was hers but it was shown that almost immediately afterwards, upon leaving the deposition room, she advised complainant's counsel that she was nervous and confused, that she did not remember having signed that document and she also stated that it was not her signature and requested that complainant's attorney attempt to correct the record (T. 373, 374).

Linda K. Fuller-Cox, complainant's third witness, testified that she is married, has four (4) children, lives in Auburn, Washington, and is the co-owner of the Melaque Restaurant in Milton, Washington. She is very active in that business and hires all employees, who number 11 and most of whom are of Mexican origin, and because of that she has ties to the Hispanic community (T. 408, 409).

In the fall of 1991, in connection with opening a second Mexican restaurant, she began a search for cooks to staff it and the name of the respondent, Alvarez, was mentioned to her by her partner, Teresa Guitron, as a person who could assist Teresa's two (2) cousins, whose names she thought were Armondo Beltran-Gonzalez and Guadalupe Sanchez-Gonzalez, obtain work authorization documents and also act as their sponsor (T. 410-412).

In that connection, Alvarez came to the restaurant and met with those two (2) young men and she heard Alvarez tell them "You know, I can help you with this. This is not a problem. I've got lots of experi-

ence with this. He said, I have done it many times." Concerning the work documents, Alvarez told them it was very important that they obtain Mexican passports in order to enter the United States legally. She and the two (2) young men went to Alvarez's place of employment, a Toyota agency in Puyallup, Washington, and also to a state licensing office to obtain State of Washington I.D. cards and later they went to the Mexican Consulate in downtown Seattle for their passports, the photos for which were taken in a photo studio located across the street from the consulate (T. 413).

She further testified that she drove those two (2) young men to the state license office and also to the consulate office. While at the Mexican Consulate, she heard Alvarez ask "the guys for the money", saying to them that he "needed the money to pay for the papers now." She did not see an envelope being handed to Alvarez but she did see Alvarez later take money from a white envelope in order to pay for the passport photos (T. 414, 415).

In addition to having driven her partner's two (2) cousins to the state office and to the consulate, she drove them to the INS office some six (6) months later, in March, 1992 (T. 414, 415). She had not planned to take them to the INS office because Alvarez was to have done so. On the appointed day, Alvarez drove up to the restaurant to pick up Armondo and Guadalupe, who advised Alvarez that she was also going with them. She also testified that upon seeing the car Alvarez was driving, she stated that she would not ride in it because it "looks like its going to fall apart right here in the parking lot." The young men told Alvarez that they could all drive to the INS office in their car, instead, whereupon Alvarez "sped out of the parking lot." The young men were upset because they had planned to follow Alvarez's car in theirs to the INS office (T. 416, 417).

As a result, she drove them to the INS office in Seattle, as Alvarez had instructed them to do, to be tested on questions they had studied in order to be issued "green cards" (T. 417, 418).

She then testified that the complaining witnesses, Enrique and Guadalupe, together with their daughter, had come to her restaurant in March, 1992 to see if "green cards" provided to them by Alvarez were genuine. Upon checking with two (2) cooks on duty, it was determined that they were not "good cards." She felt that Alvarez, who was then no longer at the Toyota dealership and could not be reached by telephone, had taken "them for a ride", as he had

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done previously to Armondo and Guadalupe, after those gentlemen had agreed to pay \$2,000 each for their work documents, \$1,000 down and another \$1,000 apiece when they received their "green cards" from Alvarez (T. 420-425).

She stated that she had been contacted by INS Special Agents Steele and Gonzalez and identified Complainant's Exhibit 10 as being the 19-page, typed statement which she gave to those special agents at the Melaque Restaurant on June 19, 1992. She also testified that no promises had been made to her and that she had not been threatened in connection with her having given that statement (T. 427, 428).

INS Special Agent Abalaro Gonzalez, complainant's concluding witness, testified that he has served as a special agent for six and one-half (6½) years. He received an A.B. in Criminal Justice from Central Washington University, is fully fluent in Spanish, and has been designated by INS to interpret English and Spanish, interchangeably, as part of his job duties. In connection with his routine job duties, he has translated some 300 statements or affidavits from Spanish to English (T. 466-468).

In connection with the INS investigation of Alvarez, he and Special Agent Steele secured sworn statements in Spanish from four (4) persons, and he translated those into English, one (1) of which was a joint sworn statement. He identified Complainant's Exhibit 11 as being the joint sworn statement of J. Guadalupe Sanchez-Gonzalez and Armondo Beltran-Gonzalez which he and Special Agent Steele obtained at the Melaque Restaurant on March 13, 1992. That joint sworn statement is in Spanish and his English translation is attached (T. 468-471).

He and Special Agent Steele interviewed those persons individually and at different times in order to learn the identity of the document vendor, who was separately identified by both affiants as having been Alvarez. The affiants inquired as to whether they would be deported and he advised them that they would appear before an immigration judge. No promises were made and no inducements were extended to them in connection with those sworn statements. After securing those statements, his later investigation revealed that the joint statements made by them in that affidavit were true.

This witness also identified Complainant's Exhibit 12 as being the sworn affidavit, in Spanish, with his English translation attached, which he and Special Agent Steele secured from Isauro Benitez-Zuniga at the Melaque Restaurant on March 15, 1992. He stated that Isauro Benitez-Zuniga also identified Alvarez as the person to whom he had paid money for fraudulent work documents. Similarly, his subsequent investigation disclosed that the statements given by that affiant in his affidavit were true, also (478-481).

Special Agent Gonzalez also identified Complainant's Exhibit 13 as being the sworn statement, with the English translation attached, of one Jose de Jesus Guitron-Barajas which he and Special Agent Steele secured from him at the latter's apartment in Everson, Washington on March 19, 1992. They had gone to Everson, which is located some 150 miles north of Seattle, to interview him after learning from his sister, who worked at the Melaque Restaurant, that he had also purchased a fraudulent document from Alvarez (T. 481-482).

He also testified that Messrs. J. Guadalupe Sanchez-Gonzalez, Armondo Beltran-Gonzalez and Jose de Jesus Guitron-Barajas, unlike the two (2) complaining witnesses, were not able to provide to him and to Special Agent Steele the fraudulent "green cards" for which they had given money to Alvarez only because their transactions with Alvarez had not been consummated (T. 486, 487).

On cross-examination, Special Agent Gonzalez stated that he had obtained a copy of Alvarez's driver license from the State of Washington Department of Licensing and also conducted a criminal background check on him by the use of the National Criminal Information Computer, as well as a traffic check, and had also subjected all six (6) of the persons who had given sworn affidavits to the same scrutiny. Those inquiries failed to reveal any criminal convictions concerning any of those seven (7) persons (T. 550, 551).

In addition to the previously-summarized hearing testimony of the two (2) complaining witnesses, Enrique and Guadalupe, complainant adduced essentially identical additional evidence concerning Alvarez's efforts to obtain work eligibility documents for four (4) other illegal Mexican immigrants. That evidence, as noted previously, consists of the joint sworn affidavits of Armondo Beltran-Gonzalez and J. Guadalupe Sanchez-Gonzalez (Complainant's Exh. 11), and the two (2) individual affidavits of Isauro Benitez-Zuniga

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(Complainant's Exh. 12) and Jose de Jesus Guitron-Barajas (Complainant's Exh. 13).

In their joint sworn affidavit, dated March 13, 1992 (Complainant's Exh. 11), Armondo Beltran-Gonzalez and J. Guadalupe Sanchez-Gonzalez attested that they had entered the United States illegally in August, 1991 from Tijuana, Mexico. In early September, 1991, they learned through "Senora Linda", owner of the Melaque Restaurant, that one Armando Alvarez would assist them in obtaining legal work authorization documents. They subsequently met with Alvarez at the Melaque Restaurant and learned from him that for \$2,000 apiece he would secure for each of them a "mica" and a Social Security card. They agreed to pay Alvarez \$1,000 apiece to "begin the process" and Alvarez told them that he would take them to the Mexican Consulate in Seattle, Washington shortly thereafter. On September 25, 1991, they met Alvarez on the parking lot of the Melaque Restaurant and Senora Linda (Linda Fuller-Cox) drove him, his cousin and Alvarez in her van to the Mexican Consulate in Seattle. Senora Linda occupied the driver's seat, Alvarez was seated in the front passenger seat, and they were seated in the rear seat.

When arriving in Seattle, they parked in front of the Mexican Consulate and Alvarez asked them for their \$1,000 down payments. He stated that he and his cousin each paid Alvarez \$1,000, as requested, and that Senora Linda had observed Alvarez receiving those separate payments, as well as all other happenings at the photo shop, as well as at the consulate.

They then went across the street with Alvarez to a photo studio, where separate photos of him and of his cousin were taken by a young Mexican who appeared to be acquainted with Alvarez based upon prior contacts.

Alvarez then took them across the street to the Mexican Consulate, where he and his cousin each completed written passport applications, which Alvarez submitted with the photos of each just taken across the street, and paid the \$90 total charges for the two (2) passports with a \$100 bill. They were each issued Mexican passports and were then photographed separately there at the Mexican Consulate, also, in connection with their also having been issued separate Mexican I.D. cards. Alvarez paid for the Mexican I.D. cards,

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also. Following their each having been issued Mexican passports and I.D. cards, they left and returned to the Melaque Restaurant.

Upon arriving at the Melaque Restaurant, they agreed to meet with Alvarez again a few days later so that Alvarez could take them to the Washington State Department of Licensing in Puyallup in order to obtain Washington State I.D. cards for them. Alvarez took them to that office shortly afterwards and paid for the state I.D. cards which both received.

In their joint affidavit, they also affirmed that Alvarez had told them that they could keep their Mexican passports until he could arrange to have them stamped in the Mexican Consulate's Office in Guadalajara, Mexico. In early October, 1991, Alvarez contacted them by telephone in order to have them deliver the passports to him for that purpose. They did so, returning their Mexican passports to Alvarez at his office in the car dealership in Puyallup. While at his office, Alvarez gave them a written questionnaire, containing questions and answers in preparation for an interview before INS personnel in Seattle. They followed Alvarez's instructions and studied those questions and answers.

In mid-October, 1991 Alvarez again telephoned to advise that he was about to leave for Mexico in order to have their Mexican passports stamped.

Alvarez telephoned again in late November, 1991 to tell them that he had returned and also advised them that he had scheduled an appointment for them with INS officials on December 27, 1991, and asked if they had been studying the questions and answers previously provided to them.

On December 27, 1991, Alvarez took them to the INS Office in Seattle, Washington. They were seated in a waiting area and Alvarez disappeared and returned, stating that INS had requested that they be fingerprinted. Alvarez took them to "the Police Department," where their fingerprints were taken. They then returned to the INS office and again took seats in the waiting area. Alvarez left them again and returned to tell them that they needed a letter from an employer sponsor, or a letter in which a prospective employer advises the INS that they would be offered a job in the event that INS granted them work authorization status.

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Alvarez requested such letters from Senora Linda, who provided those letters during the third week of February, 1992. Alvarez then arranged for another appointment at the Seattle INS Office on March 3, 1992, and they were to meet him on the Melaque Restaurant parking lot at 11 a.m. on that date.

They went there on that date. Alvarez arrived at 10:15 a.m. to drive them to Seattle. Senora Linda insisted upon going with them because both of them no longer trusted Alvarez, who refused to allow her to go with them. Alvarez went to Seattle alone, saying he would meet them there.

As a result, Senora Linda drove them to the Seattle INS Office, but Alvarez was not there. After waiting for him for two (2) hours, Alvarez did not show. They were driven back to Milton and they have not seen Alvarez since.

Isauro Benitez-Zuniga, in his sworn affidavit of March 15, 1992 (Complainant's Exh. 12), stated that he is a citizen of Mexico, is 26 years of age and entered the United States illegally through Tijuana, Mexico in September, 1989.

He met the respondent, Armando Alvarez, through a friend, Javier Sanchez, who worked at the Melaque Restaurant in Milton, Washington. Sanchez had brought a car from Alvarez at the dealership at which the latter worked in Puyallup, Washington. In the course of having done so, Alvarez told Sanchez that "he also did immigration arrangements legally", including obtaining a "mica", or an INS card.

He asked Sanchez to arrange a meeting for him with Alvarez. Sanchez did so and was told by Alvarez to come to the latter's office at the Toyota dealership in Puyallup, that it would cost \$2,000 to secure a "mica", \$1,200 as a down payment and the remaining \$800 when the "mica" was delivered to him by Alvarez.

He met Alvarez at the Toyota dealership in October, 1991. Alvarez confirmed that he could obtain "papers", or immigration documents, for him as Alvarez said he had for many others. Alvarez told him that he should first obtain a Mexican passport and that he could assist with that, also. The "papers" would cost \$2,000 with a down payment of \$1,200 "to begin the process." Upon learning that the affiant

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had \$1,200, Alvarez told him to meet him at 10 a.m. the following day at the Melaque Restaurant.

On the following morning, he met Alvarez in the Melaque Restaurant. They were joined there by a man, his wife, and their small daughter and Alvarez drove them to the Mexican Consulate in Seattle. They went first to a photo studio across the street from the Mexican Consulate to have their passport photos taken. Individual photos of the husband and wife were obtained, then his photo was taken.

Immediately after his photo was taken, Alvarez requested the \$1,200 from him and he paid Alvarez that sum in the photo studio. No one witnessed that money being paid to Alvarez "because he cornered me in an area inside the studio." He requested a receipt from Alvarez, who refused to provide one. The husband and wife also requested receipts from Alvarez, who became angry and refused their request, also.

He also attested that he had witnessed the husband give an unknown sum of money to Alvarez and that he had seen that man's wife give money to Alvarez, also. This affiant was shown the two (2) Resident Alien Cards #A9001444a and A90012445 which have been marked and placed into evidence as Complainant's Exhibits 2 and 3, those of Enrique and Guadalupe, respectively, and he identified the photos on those cards as being those of the husband and wife who had accompanied him and Alvarez to the Mexican Consulate in Seattle in October, 1991. He also identified the man as being the person whom he had seen give the money to Alvarez in the photo studio on that occasion.

After the passport photos were taken, Alvarez took them across the street to the Mexican Consulate, where his photo was taken again for use on a Mexican I.D. card which was issued to him at a cost of about \$20.

Alvarez advised him that he had been given his Mexican passport and they then returned to the Melaque Restaurant. Upon their arrival, Alvarez told them that he would retain their Mexican passports and take them to Guadalajara, Mexico to have them stamped in order to show that they had all legally entered the United States as tourists.

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Shortly afterwards, he moved to Hailey, Idaho and some eight (8) days afterwards Alvarez telephoned to advise that he had returned from Mexico with the stamped Mexican passports. Alvarez also told him that he had arranged an interview appointment for him on January 6, 1992 at the INS Office in Seattle.

At about 9 a.m. on that date, he met Alvarez at the latter's office and was driven to the Seattle INS Office by Alvarez in a Toyota pickup truck. He remained seated in a waiting area and was not interviewed. Alvarez left for awhile and returned, telling him to return to the pickup truck. Alvarez joined him later and told him that he would obtain a six (6)-month working permit for him. Alvarez told him that he would telephone again when his "mica" and Social Security card were ready, for which Alvarez would be paid the remaining \$800 of the agreed upon \$2,000 sum.

Alvarez telephoned him again on March 13, 1992, or two (2) days before he provided his sworn statements to INS Special Agents Steele and Gonzalez. That call was placed to the home of a friend in Twin Falls, Idaho. Alvarez told his friend that it was urgent that he speak to him and "that he already has everything for me." Alvarez's call could not be returned since Alvarez stated that he had placed the call from a public telephone. He also stated that Alvarez had also telephoned him on the following day, March 14, 1992, but that he did not return either call since Theresa Sanchez, of the Melaque Restaurant, who is a sister of his friend, Javier Sanchez, telephoned him in Idaho to advise him that two (2) INS Special Agents "wanted to see me as soon as possible regarding Armando Alvarez."

Jose de Jesus Guitron-Barajas was interviewed by INS Special Agents Steele and Gonzalez on March 19, 1992 and his sworn affidavit (Complainant's Exh. 13) was obtained on that date.

At the outset of his interview, as in the case of the other three (3) persons from whom sworn affidavits were obtained, he was shown a photocopy of a Washington State driver's license issued to respondent, Armando Alvarez, containing the latter's photograph. He advised Special Agents Steele and Gonzalez, as had the other three (3) affiants, that the person whose photograph appeared on the copy of that driver's license was Armando Alvarez, the person with whom all of them had dealt in obtaining or attempting to obtain work eligibility documents.

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He attested that he was born in Cuatla Jalisco, Mexico on June 10, 1965 and that he entered the United States illegally through San Ysidro, California in October, 1989 and paid a "coyote", or smuggler, the sum of \$400 to escort him across the border and to take him to a hotel in the San Diego area.

He arrived in Renton, Washington on October 25, 1989 and shortly thereafter met the respondent, Armando Alvarez, in connection with his securing work eligibility documents, i.e. a "mica" and a Social Security card.

Through his sister, Theresa, who worked at the Melaque Restaurant, he learned that Alvarez could help him secure a "mica" and a Social Security card for the sum of \$2,000. Alvarez had told his sister to bring him to Alvarez's office, located in a car dealership in Puyallup, Washington.

They went there in early September, 1991 and upon meeting Alvarez asked him whether he could help him obtain a "mica" legally. Alvarez told him that he could, but that it would cost \$2,000 and that the affiant would be required to make a \$1,200 down payment as soon as possible. At their first meeting, also, Alvarez described himself as an attorney who had assisted many others in obtaining legal INS documents. Upon learning what the documents would cost, his sister began to raise the money, hoping to borrow the \$2,000 from friends.

He and his sister again met with Alvarez at the latter's office on September 16, 1991. On that second visit, Alvarez gave him a written list of questions and answers, in Spanish, which he was to study in connection with a later visit to an INS office. Alvarez requested the \$1,200 down payment at that meeting, but his sister had not then been able to borrow the money.

They arranged a third meeting with Alvarez on September 29, 1991 at the Melaque Restaurant, in Milton, Washington. Upon arriving, they met with Alvarez, who drove them and another man and his wife to the Mexican Consulate in Seattle.

Before going to the consulate, they went across the street to a photo studio where his photograph was taken. They then went to the Mexican Consulate and Alvarez requested and received his \$1,200 down payment in the waiting area. He then filled out some forms

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and had another photograph taken. He showed his Mexican birth certificate and his Mexican military I.D. card and was then issued a Mexican I.D. card. Alvarez later returned with his Mexican passport, which Alvarez retained after showing it to him.

The group then returned to the Melaque Restaurant. On the way, Alvarez told him that he was mailing his Mexican passport to Tijuana, Mexico to have it stamped to show that he had legally entered the United States as a tourist.

Some eight (8) days later, in October, 1991, his sister telephoned Alvarez at the car dealership in Puyallup to determine whether his passport had been sent to Tijuana. Alvarez told her that his unidentified friend in the Tijuana, Mexico office had been transferred to another office in Guadalajara, Mexico and that Alvarez would personally visit his friend there in order to have her brother's passport stamped.

Alvarez was unable to have his Mexican passport stamped or to obtain an immigration card for him and Alvarez telephoned him in mid-November, 1991 to advise that it would be difficult for him to obtain a "mica", even though he had already paid Alvarez the \$1,200 as a down payment.

In view of that, Alvarez outlined an option, that of marrying a lady whom he had met, whose name was "Jean" or "Jen". Alvarez also told him that if he married her the affiant, owing to that marriage, could apply directly to the INS for a "mica". Alvarez also assured him that he "would only be married on 'paper', and that I would not live with her nor be responsible to her for anything."

Alvarez arranged for him to meet that lady in his Puyallup office in late November, 1991. Alvarez also stated that his charge for arranging that marriage would be \$800 and that he would provide her with a used car in return for her marrying the affiant.

He went to Alvarez's office, as scheduled, to meet the lady, but she failed to appear. Alvarez later told the affiant's sister, Theresa, that she had forgotten about her appointment to meet the affiant.

On December 29, 1991, Alvarez telephoned and advised him "that he had another girl that he had met, so that I could legally marry her and live with her." Again, Alvarez advised him that he would charge \$800 for that service.

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Alvarez told him that he had met that girl through her father, to whom he had sold three (3) cars. Her father had informed Alvarez that she was six (6) months pregnant, that she had been raped by two (2) men and that the father was concerned that his grandchild "would be born without a father."

Alvarez also stated to the affiant that upon receiving that information from the father of that 19-year old girl, "he had made a proposal to him." Alvarez discussed the affiant's "immigration problem" with the girl's father and showed him a photograph of the affiant, and the father was agreeable to a marriage and was anxious to meet the affiant.

On January 5, 1992, he and his sister, Theresa, went to Alvarez's office for that purpose, arriving late for their 11 a.m. appointment. The 19-year old lady was not there and Alvarez explained that she had become ill and had been removed by ambulance and taken to a Puyallup hospital for emergency treatment just five (5) minutes before they arrived.

In mid-January, 1992, according to the affiant, Alvarez again contacted him by telephone to advise him that the young lady's father had accepted Alvarez's proposal and wished to proceed with the marriage. Alvarez instructed him to have someone obtain "a marriage certificate" in the courthouse in Bellingham, Washington and send two (2) copies of that document to Alvarez's office in the Puyallup car dealership.

He contacted his sister in Lynden, Washington and she obtained the requested document and mailed the copies to Alvarez, as he had requested. But Alvarez telephoned repeatedly to advise that he had not received those copies.

Alvarez telephoned him to arrange a meeting with him at the Melaque Restaurant on March 1, 1992, so that he could obtain the "original marriage certificate", which the affiant had retained. He and his roommate, Ines Mariscal, met Alvarez there on that date and he gave that document to Alvarez. Mariscal questioned Alvarez concerning whether those arrangements were legal, and Alvarez "told my room-mate [sic] that it was none of his business, because he was not paying him."

At that meeting, also, Alvarez told him that he would telephone him by Tuesday, March 3, 1992, to make arrangements to bring the

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young lady to the affiant's home so that they could be married in Bellingham, Washington on March 5, 1992.

He has not heard from Alvarez since that time, but he believes that he will do so "because I paid him a down payment of \$1,200 dollars, and I was also willing to get married."

The three (3) sworn affidavits, containing the preceding summarized facts provided by Messrs. Armondo Beltran-Gonzalez, J. Guadalupe Sanchez-Gonzalez, Isauro Benitez-Zuniga, and Jose de Jesus Guitron-Barajas (Complainant's Exhs. 11, 12, and 13), were properly admitted into evidence by Judge Schneider, over the objection of respondent based upon the hearsay character of those documents.

Judge Schneider relied upon his prior decision in *United States v. Mr. Z Enters., Inc.*, 1 OCAHO 288 (1991). In that ruling, he found that it is well established that hearsay is admissible in administrative proceedings and can constitute substantial evidence upon which a decision may be based where, as here, such evidence is supported by probative corroborating evidence, citing *Richardson v. Perales*, 402 U.S. 389, 91 S. Ct. 1420 (1971) (holding that hearsay may constitute substantial evidence on the condition that an opportunity to cross-examine the witness who made the hearsay statements is offered, even if that opportunity, as under these facts, is not exercised).

Judge Schneider also relied upon *Calhoun v. Bailar*, 626 F.2d 145, 148-149 (9th Cir. 1980), *cert. denied*, 452 U.S. 906 (1981) and 4 Stein, Mitchell and Mezines, *Administrative Law* §26.02 (rev. ed. 1990).

Respondent's evidence began with the testimony of Virginia Rider, who was qualified as a handwriting and handwriting analysis expert. Her testimony, according to respondent's counsel, would show that the signatures of Enrique Vargas-Garcia and Guadalupe Figueroa-Torres on the two (2) Agreement documents, on both the English and Spanish versions of each (Respondent's Exhs. 32, 32A, 33, 33A), were in fact genuine (T. 282, 283).

At the outset of this witness' testimony, counsel jointly stipulated that on August 15, 1994, or the day prior to Ms. Rider's testimony, five (5) exemplars, or specimens, of each of the handwritten signatures of Enrique Vargas-Garcia (Respondent's Exhs. 32 I-M) and

Guadalupe Figueroa-Torres (Respondent's Exhs. 33 I-M) had been obtained in the presence of both counsel (T. 388).

Based upon those handwriting exemplars, Ms. Rider testified that Enrique Vargas-Garcia's signatures on both the English and Spanish versions of the Agreement (Respondent's Exhs. 32, 32A), were one and the same (T. 392), as she had stated in her follow up handwritten report (Respondent's Exhs. 32N, 32O).

Similarly, Ms. Rider testified that by using the pertinent handwriting exemplars of Guadalupe Figueroa-Torres, she had determined that the signatures on the English and Spanish versions of the Agreement (Respondent's Exhs. 33, 33A) were those of Guadalupe Figueroa-Torres (T. 402, 403), a fact that she had also confirmed in a separate two (2)-page handwritten report (Respondent's Exhs. 33N, 33O).

Joseph A. Rodriguez, respondent's second witness, testified that he is employed as a machinist and is a friend of Mr. Rupprecht, respondent's counsel, for whom he agreed to gratuitously serve a deposition subpoena upon Guadalupe Figueroa-Torres, on an undetermined date, and that he had done so presumably shortly prior to July 25, 1994, the date upon which her deposition testimony was taken.

He stated that upon entering her home for that purpose, he advised her that he "had some legal papers for her," whereupon she stepped backwardly, placed her hands behind her back and advised him that she did not wish to receive "any papers from the court." He then dropped the deposition subpoena on the floor at her feet and walked out, despite her protestations that she had not received that document (T. 492, 493).

Respondent's third witness was Ana Fernandez-Isla, who is employed by Mr. Rupprecht, respondent's counsel, in an undetermined capacity. She testified that she had served as the jointly agreed upon sworn interpreter during the depositions of Enrique Vargas-Garcia and Ms. Guadalupe Figueroa-Torres in Mr. Rupprecht's law offices on July 25, 1994.

Upon being shown the documents captioned Agreement, in the English and Spanish versions (Respondent's Exhs. 32, 32A), she testified that in his deposition Enrique Vargas-Garcia had testified that

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the signatures on those documents were not in fact his signatures (T. 622, 623).

She also stated, when having been shown the documents captioned Agreement, both in English and Spanish (Respondent's Exhs. 33, 33A), that at her deposition Ms. Guadalupe Figueroa-Torres did not deny that the signature was hers, "as far as I remember, she said it was." (T. 623, 624).

Mr. Rupprecht, respondent's counsel, then advised Judge Schneider that respondent's next witness would be opposing counsel, Ms. Zsa Zsa DaPaolo, complainant's counsel of record, and that the purpose of his securing Ms. DePaolo's testimony in his client's case was that of offering her testimony in support of Mr. Rupprecht's brief "that there's been a pattern of bad faith in responding to my discovery request." (T. 625, 626).

Mr. Rupprecht advised Judge Schneider that the untimely discovery replies about which he complained were not received until Tuesday, August 11, 1994, or four (4) days before the hearing "—leaving me one and a half days to prepare for the hearing—" (T. 628).

Judge Schneider quite properly refused to have Ms. DePaolo's testimony taken, and reminded Mr. Rupprecht that under the applicable procedural rules a motion to compel was the proper pleading to have filed in the extended pre-hearing period, rather than voicing his belated concerns at the hearing. In addition, Ms. DePaolo advised Judge Schneider that she had placed all of the requested discovery document copies in an outbound office mail container on Tuesday, August 2, 1994, for delivery to Mr. Rupprecht

Armando Alvarez-Suarez, the named respondent and the concluding witness, testified that his name is Armando Jose Alvarez (T. 637) and that he has lived in the United States for over 10 years (T. 729).

His age was not determined, but his educational background included his having received a Bachelor of Arts degree in Business Administration from an unidentified school in Monterey, Mexico. He also stated that he had attended the University of Barcelona and had studied at the Sorbonne in Paris, majoring in business administration relating to international transactions and that he is fluent in six (6) languages and two (2) dialects. The languages being English,

French, Italian, Portuguese, German and Chinese, as well as the Delaho (phonetic) and Catalin dialects.

He also attended Texas Wesleyan College in Houston, Texas, prior to having lived in Seattle, Washington, and that prior to having attended that school he worked in Brazil "for a couple of years" as a sales manager. His sales crews sold encyclopedias and other books for an American firm named World Circulation. After Brazil, he performed the same job duties for that firm in Australia (T. 730).

He then returned to Barcelona, Spain, to visit his mother where he did not work because he "didn't need to do that in Spain" because "my family is very, very wealthy" (T. 731).

Alvarez also testified that his family owns "a house in Barcelona, we have a couple of houses in Tampico, Mexico, we have some buildings in Mexico City, and a couple of condos in Puerto Vallarta and Cancun." He testified that his net worth is \$2-million, in American dollars (T. 731, 732).

Following his visit of undetermined duration to Barcelona, he "came back again to the United States", arriving in Seattle. He also testified that his family home, an apartment situated in an undetermined location in Utah, is owned by his wife (T. 733).

At the time of the hearing, according to his testimony, he described his occupation as being that of a self-employed salesperson. He stated that he sells "properties", and that he was in the process of securing a broker's license to sell homes (T. 368).

He previously sold used cars at the Toyota Puyallup agency, located at an address he could not remember on Main Street, in Puyallup, Washington. He left there in February 1992 or February 1993 because "I was forced to leave my place of employment due to investigations from some agents from the INS" (T. 638, 639).

Alvarez also testified that he and his family had been harassed, prosecuted and discriminated against by the INS "without no foundation whatsoever." (T. 640) and that that agency had been "picturing me like if I'm worse than John Gotti or Al Capone or something like that" (T. 643).

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He acknowledged knowing the two (2) complaining witnesses who had testified, Enrique Vargas-Garcia and Guadalupe Figueroa-Torres, but he denied and therefore disputed, their testimony that they had telephoned him prior to coming to Toyota Puyallup initially. He testified that they came uninvitedly to the auto agency to buy a used car (T. 644) and had tried unsuccessfully to communicate with him in English, so he spoke to them in Spanish. He testified that he began to fill out a credit application form for them and placed into evidence a blank, identically worded single page document entitled Toyota Motor Credit Corporation Form TMC-125 (Respondent's Exh. 34). However, no corresponding completed and signed credit application from either of the complaining witnesses was produced and/or entered into evidence by the respondent, in support of his contention that the sole reason for their having come to his then place of employment had been to buy a used car.

Alvarez further testified that he asked Enrique for the numbers of his driver's license and Social Security card and learned that he had neither. He could not recall the type of automobile the complaining witnesses were interested in buying, but he did remember that they were driving, and wanted to trade, a very old "Toyota Corolla leaf back SR-5," the color of which had faded (T. 648). He felt that they could not afford to pay more than \$2-3,000 for a car and that theirs would bring \$50 to \$100 in trade, but they told him that \$2-3,000 was too expensive. He told them that he had no cars priced below that amount and also told them they could "come back later" (T. 652, 653).

Alvarez also testified that he had been aware from the outset that Enrique and Guadalupe were aliens who were in the United States illegally and that they had told him how they entered this country. He stated that he felt sorry for them and had told them that he could not help them unless they obtained "some forms of identification." (T. 653).

He stated that the gentleman's wife, Guadalupe, did not have a driver's license or Social Security card, either. He asked her for identification and she produced a green colored INS document containing a large black and white photograph of her. When he informed her that he would retain that identification document "she grabbed it and put it back in her purse." (T. 650).

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At that point he advised the husband and wife, Enrique and Guadalupe, that he could not sell them a car on credit and inquired whether they could pay cash for the car. Alvarez volunteered that he has “a lot of people referring people to me because they’re satisfied with my service and my honesty.” (T. 651).

He also testified that he advised the couple that he simply could not help them without their having identification and he suggested that they obtain identification documents from the Mexican Consulate.

Alvarez also testified that Enrique and Guadalupe had probably spent “an hour or so” during their first visit to the Toyota Puyallup agency, and repeated that they did not contact him by telephone prior to coming, that he “absolutely” did not accept money “from them that first night”, and that he was the only person at the automobile agency with whom they had dealt . (T. 655).

He also stated that the complaining witnesses had walked in “late at night” for their first meeting with him, that upon leaving there had been no discussion concerning their returning to the Toyota agency, and that he had not discussed the fact that he had met that couple with anyone else (T. 656).

Alvarez also testified that he saw the complaining witnesses again at the agency “a couple of weeks later” in October or November, 1991, and that he was surprised to see them (T. 657, 658). On that occasion, they waited for one and one-half (1½) hours before telling him they had decided to buy a car. They informed him that they wanted to trade their car, to “put about \$400 more”, and they inquired about obtaining credit (T. 660, 661).

He stated that the couple did not bring any money with them on that second visit to the agency, which lasted “about another hour or so” (T. 661, 662). That meeting ended in the same manner as the first since Enrique did not have a driver’s license and therefore could not qualify for credit (T. 660).

Alvarez denied in his sworn testimony that either Enrique or Guadalupe had requested that he assist them in obtaining “green cards” (T. 664).

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He recalled that Guadalupe had told him that she had secured a “green card” in California (T. 665). He also testified that on the couples’ eighth or ninth visit to his employer’s automobile agency, he told them that they would be required to establish their identity and that they could do so by visiting the Mexican Consulate and obtaining I.D. cards (T. 666).

Alvarez also testified that several of the other sales persons at the car agency had seen the couple on their visits, but when asked to identify any of those sales associates he was unable to do so, explaining to Judge Schneider that “In the car business, your [sic] Honor, many of the salesmen come and go like the wind.” (T. 667).

He denied initially that he had taken any other persons to the Mexican Consulate in order “to try to help them out”, but then immediately testified that he had taken “a couple of people” there, including a co-worker who needed a visa (T. 670).

Alvarez also denied that he had offered to help Enrique and his wife, Guadalupe, obtain identification documents at the Mexican Consulate because of difficulties in earnings sales commissions at that time. He testified that he made a very good living selling cars at the Toyota agency, that his records would disclose that he sold some 20 to 25 cars each month, and that his sales commission was 30% of the sales prices (T. 670–672).

He also testified that the couple “were very persistent to try to get the stupid car” and on their tenth visit or so to the Toyota agency, which occurred “late at night”, he agreed to take them to the Mexican Embassy in order to obtain identification documents which in turn could be utilized to obtain financing for their purchase of a used car (T. 672, 673).

He further testified that he checked his schedule for the following day and telephoned the Mexican Consulate to determine their hours and which documents they would be required to bring (T. 673, 674).

Alvarez also testified that they went to the Mexican Consulate and that both Enrique and Guadalupe had obtained passports and Mexican I.D. cards, for which he did not “take any money from them” (T. 675).

He could not recall when they went to the Mexican Consulate, but did remember that the only money which was exchanged was that which Enrique and Guadalupe paid for passport I.D. photographs taken in a photo shop across from the consulate, as well as the money both had also paid at the consulate.

He testified that prior to taking them to the Mexican Consulate he had Enrique and Guadalupe each sign one (1)-page documents entitled Agreement in which each of them agreed that they had not given him any money and that he was simply trying "to do something nice and charitable for you." (T. 680).

Alvarez explained that he had drafted those identical Agreements, in English and in Spanish, and that one of the secretaries at the automobile agency, whose name he could not remember, had typed those four (4) documents.

He further testified that in the course of being trained at the automobile agency he had been advised that "You always need to protect yourself. Why, because in the car business, your [sic] Honor, see, when you sell a car, if it's used or if it's new, you are attacked to a lemon law, you are attacked with the Consumer Protection Act and implied warranties and merchantability." (T. 679).

He stated that he read the Agreement wording to Enrique and Guadalupe and that both had signed English and Spanish versions of the Agreement. Those copies of the Agreement which Alvarez had read to Enrique and the English and Spanish versions which he signed were entered into evidence as Respondent's Exhibits 32 and 32-A, respectively, and those which Guadalupe signed were entered as Respondent's Exhibits 33 and 33-A.

In view of respondent's reliance upon that Agreement wording, it might be well to provide the reader with the full text of the Agreement:

THE PRESENT AGREEMENT IS DRAWN IN THE CITY OF PUYALLUP, IN THE STATE OF WASHINGTON, BETWEEN MR (S) [sic] AND MR [sic] ARMANDO ALVAREZ. IN THIS AGREEMENT, MR [sic] ALVAREZ WILL MAKE ALL NECESSARY TRANSLATIONS OF PERSONAL AND OR OFFICIAL PAPERS FOR THE ABOVE PERSON MENTIONED.

WE EXPRESS THAT THERE HAS BEEN NO MONETARY TRANSACTION OF ANY NATURE BETWEEN THE ABOVE PERSONS MENTIONED IN THIS AGREEMENT.

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MR (S) [sic] _____ DOES NOT SPEAK OR UNDERSTAND ENGLISH, THEREFORE MR. ALVAREZ WILL TRANSLATE THAT WHICH IS NECESSARY FOR HIS PERSONAL BUSINESS AND AFFAIRS.

WE RATIFY THAT THIS AGREEMENT BETWEEN THE PERSONS ABOVE MENTIONED AS A HUMANITARIAN AND CHARITABLE SERVICE.

DUE TO THIS FACT MR (S) [sic] _____ EXONERATES MR [sic] ALVAREZ OF ANY RESPONSABILITY [sic] FOR THE RESULTS AND USE OF THESE TRANSLATIONS, AND THE USE OF THESE SAME TRANSLATIONS IN FILLING OUT ANY TYPE OF FORMS.

I SIGN THE PRESENT AGREEMENT WITHOUT ANY DURESS AND OF MY OWN FREE WILL.

Alvarez testified that after Enrique and Guadalupe had signed the Agreements, he immediately took those documents to Don Pelley (Pelley), one of the managers at Toyota Puyallup, who was also a notary public, and that Pelley notarized those four (4) documents (T. 682, 737).

Those four (4) Agreement copies, entered into evidence as Respondent's Exhibits 32, 32-A, 33, and 33-A, contain the notary seal of one Don W. Pelley, over which had been handwritten the notation that Enrique Vargas Garcia and Guadalupe Figueroa Torres had each affixed their respective signatures on the English and Spanish versions of that document on March 2, 1992.

When asked by Judge Schneider whether Enrique and Guadalupe had signed the four (4) documents in Pelley's presence, Alvarez testified: "I believe that they did, your [sic] Honor, in my recollection at that time, yes." (T. 682).

Alvarez also stated that Enrique and Guadalupe had asked him if he knew of someone who could assist them in acquiring "green cards" and that he advised them that he did not know anyone whom he could recommend (T. 685).

He also testified that after he brought Enrique and Guadalupe to the Mexican Consulate, on a date he could not remember, that he saw them again only once or twice and that they did not buy a car from him (T. 685, 686).

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He denied that he had accepted money from either of them for “green cards” or Social Security cards (T. 690).

Alvarez acknowledged that he had heard the hearing testimony of both of the complaining witnesses, Enrique and Guadalupe, to the effect that they had given him substantial sums of money for such cards, and denied that allegation, stating that “They are lying flat lies.” (T. 691).

When asked about Linda Fuller-Cox’s testimony that she had seen him in the Melaque Restaurant meeting with Armondo Beltran-Gonzalez and J. Guadalupe Sanchez-Gonzalez in the fall of 1991, he admitted being in the restaurant because “I love Mexican food” and also because he had gone there to talk to one of the restaurant employees, Rodimero, who had bought a Nissan truck from him (T. 691, 692).

He stated that he had gone to the Melaque Restaurant on two (2) other occasions, once to see a man named Havier (phonetic), who had purchased two (2) cars from him, and on the other occasion to see a cook, to whom he had been referred by Havier (T. 693 694).

Alvarez also categorically denied that he had agreed to “assist or try to help” four (4) other persons, namely Armondo Beltron-Gonzalez, J. Guadalupe Sanchez-Gonzalez, Isauro Benitez-Zuniga, and Jose de Jesus Guitron-Barajas obtain “green cards” (T. 696–698).

Alvarez also clearly denied that he had held himself out as an attorney, and also denied having represented himself as an employee of “the immigration services”, and denied also having ever told anyone that he “could or would obtain illegal documents of any sort” (T. 700, 701).

When shown a copy of the 30-question Questionnaire, with accompanying answers in both English and Spanish (Cuestionario) versions, which had previously been entered into evidence as Complainant’s Exhibit 9, Alvarez emphatically denied that he had ever seen that document before (T. 701).

Alvarez was asked why his testimony concerning the “green cards” and Social Security cards was diametrically opposed to the testimony of Enrique and Guadalupe, and that of Linda K. Fuller Cox, as well as the four (4) men who furnished sworn affidavits containing

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the same contravening facts. He was also specifically asked why those seven (7) persons would have lied on those crucial issues. Alvarez replied that all of those persons were illegal aliens who had been intimidated by the INS personnel and that they had “a lot to win” by cooperating “with the authorities” (T. 718).

On cross-examination, Alvarez stated that Enrique and Guadalupe had initially come to the Toyota dealership solely to buy a car, that he advised Enrique that he would have to pay cash for a car since he could not buy a car on credit, that they came to the agency on some eight (8) or nine (9) occasions in total, that they eventually did not buy a car, and that they came to the agency on only one (1) occasion after they obtained their identification documents at the Mexican Consulate (T. 722–728).

Issue(s)

The threshold issue under these disputed facts is that of determining whether, as complainant has alleged, respondent violated the provisions of 8 U.S.C. §1324c(a)(2).

The operative wording of that section of INA dealing with document fraud and related penalties provides, in pertinent parts, that on or after November 29, 1990, the effective date of the Immigration Act of 1990 (P.L. 101–649, Nov. 29, 1990, 104 Stat. 5059):

§1324c. Penalties for document fraud [INA §274C]

(a) Activities prohibited

It is unlawful for any person or entity knowingly—

* * *

(2) to use, attempt to use, possess, obtain, accept, or receive or *to provide any forged, counterfeit, altered, or falsely made document in order to satisfy any requirement of this [Act],*

* * *

(d) Enforcement

* * *

(2) Hearing

* * *

(C) Issuance of orders

If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity has violated subsection (a), the adminis-

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trative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (3).

* * *

(3) Cease and desist order with civil money penalty

With respect to a violation of subsection (a) of this section, the order under this subsection shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—(A) not less than \$250 and not more than \$2,000 for each document used, accepted, or created and each instance of use, acceptance, or creation, or . . .

8 U.S.C. §§1324c(a)(2) and 1324c(3)(A) (emphasis added).

It can be seen from the foregoing statutory expressions that complainant's six (6)-fold evidentiary burden of proof on the threshold issue consists of demonstrating by a preponderance of the evidence, 8 U.S.C. §1324c(d)(2)(C), that Alvarez is a (1) person, who (2) knowingly (3) provided (4) counterfeit documents namely, two (2) I-551 Resident Alien Cards to Enrique Vargas-Garcia and to Guadalupe Figueroa-Torres (5) in order to satisfy requirements of the INA, and (6) did so after November 29, 1990, as alleged in the November 19, 1993 Complaint.

In the event that complainant's evidence discloses that respondent has violated the provisions of 8 U.S.C. §1324c(a)(2) in that manner, appropriate civil money penalty sums, ranging from the statutory minimum sum of \$250 to the maximum amount of \$2,000 must be assessed for each of the two (2) alleged violations at issue.

Discussion, Findings and Conclusions

Even a cursory examination of complainant's evidence discloses that merely by having provided the hearing testimony of the two (2) complaining witnesses, Enrique and Guadalupe, and that of Linda K. Fuller-Cox, co-owner of the Melaque Restaurant, it has convincingly established by the required preponderance of evidence that Alvarez violated the provisions of 8 U.S.C. §1324c(a)(2), as alleged.

Initially, complainant's evidence reveals that Alvarez is a "person", as that term is defined at I.N.A. §101(b)(3). Next, that evidence also demonstrates that, despite his protestations, Alvarez knowingly provided to Enrique and Guadalupe the two (2) counterfeit I-551 Resident Alien Cards numbered A90014441 and A90012445, respectively.

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That because complainant's evidence discloses that Enrique, in the course of telephoning Alvarez initially at the latter's place of employment, Toyota Puyallup, in October, 1991, told Alvarez that he and Guadalupe needed work eligibility documents. Alvarez readily understood their status and needs since he told Enrique that he "had done papers for many people" and for the total sum of \$4,000 he would obtain "micas", or "green cards", and Social Security cards for each of them. Alvarez arranged for them to come to Toyota Puyallup shortly thereafter for that express purpose since neither he nor Enrique discussed the purchase of a car in their initial telephone conversation, nor at any other time, according to complainant's evidence.

Moreover, when arriving at Alvarez's office shortly thereafter for their first meeting, Enrique and Guadalupe advised Alvarez at the outset that they were in the United States illegally, whereupon Alvarez told them "not to worry about it" and that he would obtain for each of them the promised "green cards" and Social Security cards.

That evidence in complainant's case in chief amply demonstrates that Alvarez knowingly entered into a relationship with Enrique and Guadalupe for the express purpose of providing to them the work eligibility documents for which they paid Alvarez a down payment sum of \$2,400 in cash, in \$100 and \$50 bills, in the Mexican Consulate in Seattle later on in October, 1991.

We next inquire as to whether complainant's evidence has shown that the two (2) I-551 Resident Alien Cards numbered A90014441 and A90012445 were proven to have been counterfeit. That evidence, consisting of the previously-detailed testimony of INS Special Agent Steele and the April 3, 1992 reports prepared by a fingerprint specialist and a forensic document analyst at INS' Forensic Document Laboratory (Complainant's Exhs. 7 and 8), provides indisputable evidence that those two (2) documents were counterfeit. It should also be noted that the parties had previously stipulated that these two (2) documents, as well as the related Social Security cards, were indeed counterfeit.

We now examine complainant's evidence in order to determine whether it has been shown that Alvarez provided those counterfeit documents to the complaining witnesses, Enrique and Guadalupe, in order to satisfy any requirement of the INA.

That inquiry must be resolved in complainant's favor, also, for the following reasons. In enacting I.N.A. §274A, Congress mandated that any of the nation's employers having four (4) or more employees may not, with limited inapplicable exceptions, hire any individual without complying with certain employment eligibility verification requirements. Covered employers must check all documentation presented for the purposes of establishing the applicant's identity and work authorization and must also prepare a Form I-9 within three (3) days of hire.

The preparation of the Form I-9, officially known as the INS Employment Eligibility Verification Form, is a single-page, two (2)-sided document which is utilized by covered employers to determine the work eligibility of job applicants.

This is accomplished by requiring that all job applicants present documents which establish both their identity and their work eligibility.

By use of the instructions located on the face sheet of the Form I-9, the employer is clearly informed of which documents may be used for those purposes, and a description of those documents is set forth in columnar Lists A, B, and C.

List A documents include I-551 Alien Registration Cards with photographs and List C documents include an applicant's original Social Security Number Card.

It can readily be seen that in providing Enrique and Guadalupe with the I-551 Resident Alien Cards and Social Security cards, both would have been able to demonstrate their identity and work eligibility by presenting their counterfeit I-551s to a prospective employer. And by presenting their counterfeit Social Security cards, also, that same expectant employer would be able to complete an IRS Form W-4, which contains the information that enables an employer to withhold the proper tax amounts for payroll purposes.

In obtaining those two (2) specific forms of counterfeit documentation for Enrique and Guadalupe, Alvarez knowingly secured for them, for substantial cash fees, the precise documents which would facilitate their future employment applications throughout the United States.

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When viewing these transactions in the light of that background information concerning the preparation of Forms I-9, it is inconceivable that Alvarez would have provided these specific documents for any purpose other than satisfying any requirement of the INA.

Finally, it must be determined whether Alvarez's activities occurred after November 29, 1990. That must be ruled upon in the affirmative, also, since complainant's evidence has quite clearly established that Enrique's initiating telephone call to Alvarez was made in October, 1991 and that their dealings ended on March 6, 1992, the date upon which Alvarez delivered the counterfeit documents to Enrique and Guadalupe on the parking lot of the Safeway store in Milton, Washington.

In summary, complainant has met its evidentiary burden of proof concerning the charges that Alvarez twice violated the provisions of 8 U.S.C. §1324c(a)(2) by having provided two (2) counterfeit I-551 Resident Alien Cards to the complaining witnesses.

We will again review this evidentiary record in order to determine whether respondent adduced any evidence of a contravening or exculpatory character which effectively rebuts or contradicts complainant's prima facie evidence that respondent violated the provisions of 8 U.S.C. §1324c(a)(2) in the manner alleged.

Alvarez, whose age was not determined, described himself as a multi-millionaire Spanish national who has been living in the United States for over 10 years. He also testified that he attended schools in Mexico, Spain, France, and the United States prior to beginning his working career as a sales manager of crews selling encyclopedias and other books in Brazil and Australia.

It was not determined when he took up residence in the Seattle, Washington area or why he had done so, but it has been shown that in October, 1991 he was selling cars and, based solely upon his sworn testimony, had been doing so very successfully from a financial standpoint, at the Toyota Puyallup agency, in Puyallup, Washington. He could not recall the street address of that agency nor could he recall the names of any of his former sales associates at that agency, nor whether he had left that employment in February, 1992 or in February, 1993.

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His memory, however, improved significantly when recalling the facts surrounding these document fraud allegations.

In was his recollection that Enrique had not telephoned him at the Toyota Puyallup agency nor had he told him that he and Guadalupe needed work eligibility documents. Instead, both simply came to the agency unannounced in order to buy a used car. He became immediately aware that they were illegal aliens and he felt sorry for them, even to the extent of having driven them to the Mexican Consulate in Seattle, Washington so that they could obtain identification documents which would allow them to buy a car on credit at his agency. But he could not remember the date upon which he drove them to Seattle for that purpose, but did testify that both had obtained Mexican passports and I.D. cards on that visit.

Alvarez was adamant in his testimony that there had been no conversation concerning his obtaining "green cards" for them and he denied accepting any sums of money from either Enrique or Guadalupe for "green cards" or Social Security cards.

His testimony concerning his having Enrique and Guadalupe each sign English and Spanish versions of a single-page, undated Agreement revealed that that form had not been provided to him by his employer. Instead, he had composed the Agreement and had it typed by a Toyota Puyallup secretary, whose name he could not remember, for use in avoiding customer claims under so-called "lemon laws" and consumer protection statutes generally.

He offered no explanation why he would have need for such an Agreement since as a sales employee his acts would be imputed to his employer, Toyota Puyallup, which would in turn be liable to complaining purchasers. Interestingly, Toyota Puyallup apparently had not required car purchasers to sign any documents of that type, a practice which strongly suggests that the firm did not feel it was necessary to do so under either state or Federal consumer protection statutes or "lemon laws". In addition, there was no reason advanced as to why either Enrique and Guadalupe signed those four (4) Agreements (Respondent's Exhs. 32, 32A, 33, and 33A) inasmuch as Alvarez testified that they had not purchased a car. His evidence also clearly reveals that from the outset he felt that both were illegal aliens who could not have obtained credit in the absence of obtaining identifying documents, even if they had wished to buy a car.

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Similarly, Alvarez gave no explanation concerning the highly self serving wording contained in the Agreement. There is no mention of the sale of an automobile, as one would expect if the drafter of the document had been motivated to prepare such a document because of applicable "lemon laws". And several of the expressions in the Agreement are disingenuously worded in order to be interpreted as exculpatory phrases, such as there having been no monetary considerations and that the service extended was to have been regarded as one of "a humanitarian and charitable" nature.

Any objective assessment of the wording and provisions of that Agreement inevitably leads one to believe that the creation and most likely use of that document by Alvarez was in fact a cleverly crafted cover to be subsequently offered as an exculpatory document by a person who had been apprehended, as under these facts, for having provided counterfeit work eligibility documents to illegal aliens.

In assessing the testimony of the two (2) complaining witnesses, Enrique and Guadalupe, as opposed to that of Alvarez on the salient facts at issue, one must credit the testimony of the complaining witnesses over that of Alvarez. Their accounts of the happenings under these disputed facts are far more credible, and therefore amply support a finding that Alvarez wrongfully provided to them the counterfeit work eligibility documents in the manner complainant has alleged.

More importantly, complainant provided objective and corroborating testimony pertaining to these document fraud allegations from a disinterested third party, Linda K. Fuller-Cox, the co-owner of the Melaque Restaurant.

She testified that in March of 1992, Enrique and Guadalupe came to her restaurant in order to determine the genuineness of two (2) "green cards" which they had just purchased from Alvarez for the total sum of \$4,000.

Upon having those documents examined visually by two (2) cooks on duty at her restaurant, she concluded that those documents were not "good cards" and that Alvarez, who by then was no longer associated with Toyota Puyallup and could not be reached by telephone, had taken "them for a ride" as he had done previously to two (2) ac-

quaintances who had also paid Alvarez \$2,000 each for identical work eligibility documents.

Those two (2) individuals were identified in her hearing testimony as having been Armondo Beltran-Gonzalez and J. Guadalupe Sanchez-Gonzalez, cousins of her partner, Theresa Guitron, who were also illegal aliens in need of work eligibility documents.

Ms. Fuller-Cox also testified that those two (2) gentlemen had also previously outlined their work eligibility document needs to Alvarez, who had come to the Melaque Restaurant to meet them for that express purpose in the fall of 1991. In that meeting, she heard Alvarez tell both gentlemen that he could assist them in securing those documents, that he had extensive experience in obtaining such documents, and that it was very important for them to obtain Mexican passports in order to enter the United States legally.

She also testified that she had accompanied both men to visit Alvarez in his office at Toyota Puyallup for that purpose, as well as having driven both to a Washington State license office for an unstated reason and to the Mexican Consulate in Seattle in order to obtain the Mexican passports which Alvarez had suggested they obtain.

In replying to complainant's evidence, respondent depends almost entirely upon his testimony, consisting generally of mere denials that he had agreed to provide work eligibility documents to Enrique and Guadalupe for the total cash sum of \$4,000, or \$2,000 apiece, as well as the wording in the Agreement copies which he has made available. In short, he has not provided any credible evidence which can reasonably be viewed as having effectively rebutted or contradicted those favorable presumptions and inferences set forth in complainant's case.

He maintains that Enrique and Guadalupe came to see him initially quite late of an evening at Toyota Puyallup in order to buy a used car. He testified also that from the outset he was aware that both were their illegal aliens, that he felt sorry for them and decided "to do something nice and charitable" for them.

Those altruistic urges were presumably more tangibly demonstrated shortly thereafter, on a date Alvarez could not remember, when Alvarez drove Enrique and Guadalupe and their daughter, to-

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gether with an unidentified couple consisting of a sister and brother, who it develops was one Isauro Benitez-Zuniga, to the Mexican Consulate in Seattle. Alvarez testified that in the course of assisting Enrique and Guadalupe in the purchase of a used car, he had suggested to them that they obtain the necessary identification documents, consisting of Mexican passports and Mexican I.D. cards, at the consulate in order to use those to obtain credit at Toyota Puyallup.

He has vehemently denied under oath that he accepted the sum total of \$4,000 in cash installments for the two (2) documents which he is charged with having provided to Enrique and Guadalupe in March, 1992.

He was equally adamant in his hearing testimony that he secured the signatures of both Enrique and Guadalupe on the English and Spanish versions of the document entitled Agreement solely to protect himself, as a used car salesman at Toyota Puyallup, from personal liable under so-called "lemon laws".

There was additional and interesting evidence concerning the notarization of Enrique's and Guadalupe's signatures on the four (4) versions of the Agreement by one Don W. Pelley, described by Alvarez as one of the managers at Toyota Puyallup. When asked quite directly by Judge Schneider whether Enrique and Guadalupe had affixed their combined four (4) signatures to the versions of the Agreement in the presence of the notary, Alvarez replied, "I believe that they did, your [sic] Honor, in my recollection at that time, yes." (T. 682).

In addition, Alvarez disputed the testimony of Linda K. Fuller-Cox's testimony by denying having met the two (2) gentlemen at the Melaque Restaurant in the fall of 1991. According to her, those two (2) individuals, Armondo Beltran-Gonzalez and J. Guadalupe Sanchez-Gonzalez, cousins of Ms. Fuller-Cox's partner, came to the restaurant specifically on that occasion to request Alvarez's assistance in securing work eligibility documents. She also testified that she heard Alvarez tell them that he could help in securing such documentation, as he had previously done for many others, and that it would be helpful for them to obtain Mexican passports in order to show that they had entered the United States legally, presumably as tourists.

In addition to denying her simple assertion of having observed him meet with those two (2) gentlemen in the Melaque Restaurant on that occasion, Alvarez clearly denied her assertion and testified

that he had gone to her restaurant on only three (3) occasions, initially to see an employee named Rodimero, then to see a man named Javier (phonetic), and on the only other occasion to see another employee, a cook to whom he had been referred by Javier.

Elsewhere in his testimony Alvarez was questioned quite closely concerning why the two (2) complaining witnesses, Enrique and Guadalupe, and the four (4) individuals who provided sworn affidavits concerning their essentially identical work eligibility document dealings with Alvarez, would have given untruthful accounts of their dealings with him, or why those six (6) persons would have either committed perjury by having given false testimony at the hearing, as well as in their depositions, or had signed sworn affidavits containing false declarations.

Alvarez replied that "They are lying flat lies.", and that the six (6) illegal aliens had been intimidated by the INS personnel because of their belief that their probable upcoming deportation hearings would be influenced by their having cooperated with INS in its investigation of Alvarez.

But that self serving and tortured reasoning by Alvarez cannot be applied to Linda K. Fuller-Cox since she is not an illegal alien and therefore could not be subjected to the same perceived threats by INS. She has no discernible reason for not having given a totally truthful rendition of the salient facts as she observed and heard them on those many occasions that she was in Alvarez's company in the Melaque Restaurant, at Toyota Puyallup, at the Mexican Consulate in Seattle, and elsewhere.

In addition, Alvarez's implied argument that the four (4) gentlemen who gave sworn affidavits to INS did so because of upcoming deportation hearings before an immigration judge overlooks the obvious fact that by having provided counterfeit work eligibility documents to Enrique and Guadalupe, Alvarez will face that identical sanction shortly and it is equally likely that he has tailored his testimony for the same reason.

In conclusion, when assessing these disputed facts one must, as in every instance of deciding upon which of two (2) seemingly diametrically opposed versions to accept, adopt those facts which in the course of ordinary events and experiences are credible and reject those which are not.

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Upon applying that reasoning to these disputed facts, I find in favor of the complainant on the facts of violation and further conclude that respondent violated the provisions of 8 U.S.C. §1324c(a)(2) in those manners alleged in the November 19, 1993 Complaint at issue.

In reaching that conclusion, the undersigned utilized the testimony of Enrique, Guadalupe and Linda K. Fuller-Cox only since those witnesses provided more than ample bases for deciding the facts of violation. The facts contained in the four (4) sworn affidavits merely had a quantitative effect and established Alvarez's method of operation in securing work eligibility documents upon request and payment of a \$2,000 fee for each set of two (2) documents.

It is further found that in having assessed civil money penalties totalling \$3,000 or \$1,500 for each of these proven violations, INS has not acted unreasonably nor has it abused its discretion in view of the circumstances related to these document fraud infractions.

Order

In view of the foregoing, it is ordered that the appropriate civil money penalty for each of the two (2) violations at issue is \$1,500, or a total of \$3,000 for the two (2) violations set forth in complainant's November 19, 1993 Complaint.

It is further order that respondent cease and desist from violating 8 U.S.C. §1324c(a)(2).

JOSEPH E. MCGUIRE
Administrative Law Judge

Appeal Information

This order shall become the final order of the Attorney General unless, within 30 days from the date of this Order, the Chief Administrative Hearing Officer shall have modified or vacated it. Both administrative and judicial review are available to respondent, in accordance with the provisions of 8 U.S.C. §§1324c(d)(4); 1324c(d)(5), and 28 C.F.R. §68.53.