

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

UNITED STATES OF AMERICA,            )  
Complainant,                            )  
  )  
v.    ) 8 U.S.C. §1324a Proceeding  
  ) CASE NO. 93A00041  
BUSINESS TELECONSULTANTS,         )  
LTD.,                                     )  
Respondent.                             )  
\_\_\_\_\_                                    )

TECHNICAL CORRECTION TO  
ORDER OF JULY 8, 1993

The first sentence in my Order of July 8, 1993 shall be corrected to read as follows:

On July 8, 1993, I held a prehearing telephonic conference to discuss the possibility of settlement, Complainant's Motion To Strike Affirmative Defenses, Respondent's Motion To Dismiss and Complainant's Motion To Compel.

**SO ORDERED** this 16th day of July, 1993, at San Diego, California.

\_\_\_\_\_  
E. MILTON FROSBURG  
Administrative Law Judge

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v.    ) 8 U.S.C. §1324a Proceeding  
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LTD.,                                     )  
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\_\_\_\_\_                                    )

ORDER CONFIRMING PREHEARING  
TELEPHONIC CONFERENCE  
AND  
ORDER GRANTING COMPLAINANT'S MOTION  
TO STRIKE AFFIRMATIVE DEFENSES  
AND  
ORDER DENYING RESPONDENT'S MOTION TO DISMISS  
AND  
SUA SPONTE ORDER STAYING RESPONDENT'S RESPONSE  
TO COMPLAINANT'S MOTION TO COMPEL

On July 8, 1993, I held a prehearing telephonic conference to discuss the possibility of settlement, Respondent's Motion To Strike Affirmative Defenses, Complainant's Motion To Dismiss and Complainant's Motion To Compel. Appearing at the conference were Leila Cronfel, for Complainant, and Ann Allott, for Respondent.

At the conference, the parties represented that they will not be able to settle the case as Complainant has rejected Respondent's offer of the minimum civil penalty amount for each violation. Therefore, I continued the conference by granting Complainant's unopposed Motion To Strike as none of the affirmative defenses raised by Respondent were valid.

As Respondent did not raise any further argument, and has stated for the Court that it will not be appealing this determination on the

motion, I will not give a detailed discussion of each stricken affirmative defense at this time. However, I wish to make mention of Complainant's filing of a letter from the Executive Office of the President, Office of Management and Budget (OMB). This letter confirmed Complainant's opposition argument that OMB approval expiration dates are not required to be on the printed Forms I-9 and that these forms have been properly approved by OMB.

In denying Respondent's Motion To Dismiss, which argued that Complainant violated the Paperwork Reduction Act of 1980 by conducting two audits of Respondent in one calendar quarter, I considered Complainant opposition of June 4, 1993 and Respondent's June 11, 1993 response to the opposition. Complainant's arguments that Respondent's position was in error as the inspections were not conducted within the same calendar quarter, that Respondent had waived any objection to the inspections as it had consented to, had helped set the dates for, and had cooperated with, the inspections, and that the Forms I-9 are not covered by the Paperwork Reduction Act were persuasive. Again, Respondent had no further argument at the conference.

Upon further discussion of the case with the parties, it became apparent that Respondent is not contesting liability, but is contesting the amount of civil penalties that Complainant is requesting. Upon inquiry, Respondent specifically acknowledged and agreed that it would admit liability but was requesting a minimum fine, as opposed to the amount Complainant had requested.

Therefore, with the agreement of the parties, I will set the appropriate amount of civil penalties after each party submits a statement on the five factors that need to be considered in setting civil penalty amounts. Respondent shall submit its statement within 15 days of the date of this Order. Complainant shall submit its statement within 15 days later.

To facilitate this process, Respondent is submitting to Complainant some additional financial information as of today. As such, I will not rule on Complainant's Motion To Compel, as Respondent still may file its opposition and it is my belief that the parties can cooperate in this matter. Further, I will grant a sua sponte extension of time for Respondent to file its response until such time that I am telephonically informed by either party that the cooperation has not been achieved.

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Within the next week, the parties are to each file a statement requesting that I set the civil penalty amounts in this case; in addition, Respondent is to file a written statement of admission of liability to all counts in the Complaint.

**SO ORDERED** this 8th day of July, 1993, at San Diego, California.

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E. MILTON FROSBURG  
Administrative Law Judge