

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

May 25, 2017

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 16A00053
)	
ALPINE STAFFING, INC.,)	
Respondent.)	
_____)	

FINAL DECISION AND ORDER

Appearances:

Colin P. Johnson
for the complainant

Scott W. Wright
for the respondent

I. INTRODUCTION

This action arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C. § 1324a (2012). Complainant, United States Department of Homeland Security, Immigration and Customs Enforcement (ICE or the government), alleges that Respondent, Alpine Staffing, Inc. (Alpine), which is a company incorporated in the State of Minnesota, failed to comply with the employment verification requirements of 8 U.S.C. § 1324a(b). Respondent, in part, denies these allegations. Both parties filed a Motion for Summary Decision and a response to the opposing party’s motion. The matter is ripe for resolution. For the reasons provided below, Complainant’s Motion will be **GRANTED, IN PART**.

II. PROCEDURAL HISTORY

On August 23, 2013, ICE served Alpine by certified mail with a Notice of Inspection (NOI), advising Alpine that a review of its Employment Eligibility Verification Forms I-9 was scheduled for August 29, 2013, and that the purpose of the review was to assess its IRCA compliance. The NOI also indicated that federal regulations provide “three days notice prior to conducting a review of an employer’s Forms I-9.” According to ICE, Alpine Staffing, via its president, Richard Donnelly (Mr. Donnelly), delivered three boxes of Forms I-9, covering the 2011–2013 period, on August 29, 2013.

On August 30, 2013, Respondent emailed ICE that it had inadvertently discovered additional Forms I-9 and delivered these forms to ICE. On October 1, 2013, Respondent informed ICE that it discovered more Forms I-9 and delivered them to ICE on October 7, 2013. Respondent indicated that these Forms I-9 pertained to employees current as of August 26, 2013.

On October 29, 2013, ICE sent Alpine a Request for Missing Forms I-9, stating that Alpine had not prepared and/or presented to ICE Forms I-9 for seventy-five employees by the NOI’s August 29, 2013 deadline. ICE therefore instructed Alpine to provide these forms to continue the I-9 investigation. Respondent asked ICE if it should complete a new Form I-9 if it could not locate the form for the listed individuals and ICE responded affirmatively. On November 11, 2013, Alpine emailed ICE requesting a deadline of November 20, 2013, to deliver the Forms I-9. On November 20, 2013, Mr. Donnelly delivered to ICE Forms I-9 for forty of the individuals named in the Request for Missing Forms I-9.

On November 21, 2013, ICE informed Respondent that it had not received Forms I-9 for thirty-five employees and, therefore, had not been able to determine if these employees were authorized to work in the United States. In addition, ICE served Respondent with a Notice of Suspect Documents (NSD). The NSD advised Respondent that according to the records checked by Homeland Security Investigations (HSI), which is a division of ICE, 544 of its employees appeared, at that time, to not be authorized to work in the United States. The NSD further stated, “The documents submitted to you were found to pertain to other individuals, or there was no record of the alien registration numbers being issued, or the documents pertain to the individuals, but the individuals are not employment authorized or their employment authorization has expired.” ICE also warned that unless these listed employees provide “valid identification and employment eligibility documentation acceptable for completing the Form I-9,” other than what they had previously submitted, HSI would consider these employees to be unauthorized to work in the United States. The NSD also notified Respondent that it was incumbent for it to “take reasonable actions to verify the employment eligibility of the employee,” and provided the contact information for the HSI special agent in the event that Respondent or an employee wanted to challenge HSI’s findings. HSI attached a list to the NSD naming the 544 employees and the identity and work authorization documentation that he or she had presented.

On December 5, 2013, Respondent informed ICE that five of the employees named in the NSD presented additional documentation for ICE to review. On December 10, 2013, ICE issued Changes to Notice to Inspection Results, informing Respondent that HSI verified the following individuals' employment authorization: Eugenia Acevedo Jimenez, Tonancy Virgen Hernandez, and Rufino Cedillo de Leon. However, HSI confirmed its determination that Silvia Campos Sanchez and Alonso Olivera Cruz were unauthorized for employment, based on further verification of new information that Respondent had provided. Respondent was again directed to present valid identification and employment eligibility documentation for these employees other than the documentation they had already presented. On December 17, 2013, Alpine informed ICE that all of the individuals named in the NSD, with the exception of Eugenia Acevedo Jimenez and Rufino Cedillo de Leon, were no longer employed by Alpine Staffing.

On September 15, 2014, ICE personally served Respondent with a Notice of Intent to Fine, which set forth two counts.¹ Count I alleged that Respondent failed to timely present or failed to prepare and/or present Forms I-9 for 484 employees. Count II alleged that Respondent failed to ensure that 132 employees properly completed section 1 of their Forms I-9 and/or that Respondent failed to properly complete sections 2 or 3 of their forms. The Notice of Intent to Fine further stated that Respondent hired all 616 employees after November 6, 1986, and assessed a civil money penalty of \$575,960. Respondent timely requested a hearing before an Administrative Law Judge (ALJ).

On August 1, 2016, ICE filed a complaint with OCAHO, setting forth two counts. Count I of the complaint alleges that Respondent failed to timely present or failed to prepare and/or present Forms I-9 for 345 employees, as opposed to 484 employees as charged in the Notice of Intent to Fine. The complaint fully incorporated Count II of the Notice of Intent to Fine and further proposes a total civil money penalty of \$367,290. Respondent filed an answer on August 30, 2016, denying the material allegations of the complaint. Respondent also raised eight affirmative defenses, including failure to state a claim upon which relief may be granted and ICE's failure to follow its own agency guidelines. However, most of its asserted "affirmative defenses" related to ICE's proposed penalty and are, thus, not actually affirmative defenses to liability.² See *United States v. Frimmel Mgmt., LLC*, 12 OCAHO no. 1271c, 4 n.4 (2016); *United States v. LFW Dairy Corp.*, 10 OCAHO no. 1129, 11-13 (2009).³

¹ Complainant filed a Motion to Amend Complaint on January 3, 2017. Paragraph three of the complaint states that the Notice of Intent to Fine was served on September 14, 2014, and Complainant seeks to insert September 15, 2014, as the date of service. Complainant's Motion is granted.

² Respondent has not further argued or meaningfully supported any of its proposed affirmative defenses to liability, and the undersigned finds them to be abandoned. See *United States v. Metropolitan Enters., Inc.*, 12 OCAHO no. 1297, 2 n.3 (2017). Moreover, even if they were not abandoned, the undersigned would find each to be meritless regarding liability.

On October 4, 2016, the government filed its prehearing statement, in which it proposed twenty-three factual stipulations that relate generally to the procedural history of the case. On November 18, 2016, Respondent filed its prehearing statements. It agreed to several of the government's proposed factual stipulations but denied the stipulations relating to Respondent's alleged liability. Notably, according to proposed factual stipulation (c), Respondent acknowledges that the NOI "reference[d] a production date of August 29, 2013," but "believed in good faith that DHS had, through its actions and statements, consented to Respondent producing additional I-9s after August 29, 2013, and that such consent by DHS did not carry with it a risk of liability for fines or other penalties." *See* Respondent's Prehearing Statement at 4.

On January 12, 2017, the government filed a Motion to Admit Exhibits G-1–G-17, and on January 17, 2017, filed a Motion for Summary Decision (Complainant's Motion). Alpine also filed a Motion for Summary Decision (Respondent's Motion). The parties filed their responses to each opposing party's motion on February 13, 2017. The government's Motion to Admit Exhibits G-1-G-17 is granted, and all exhibits listed below from both parties have been fully considered.

III. EVIDENCE CONSIDERED

ICE proffered the following exhibits: Ex. G-1) NOI, served August 23, 2013; Ex. G-2) ICE's notes, Receipt for Property, and email from Mr. Donnelly with respect to the Forms I-9 delivered on August 29, 2013, and August 30, 2013; Ex. G-3) ICE's notes, emails, and Receipt for Property with respect to the Forms I-9 delivered on October 7, 2013, and list of employees current as of August 26, 2013; Ex. G-4) Request for Missing Forms I-9 and correspondences with respect to forms delivered on November 20, 2013; Ex. G-5) NSD with attachment, sent November 21, 2013, three Changes to Notice of Inspection Results, and one Confirmation of Notice of Inspection Results; Ex. G-6) Respondent's response to the NSD; Ex. G-7) Letter sent November 21, 2013, from ICE informing Respondent that 35 Forms I-9 were missing; Ex. G-8) Respondent's E-Verify Memorandum of Understanding, signed December 18, 2013; Ex. G-9)

³ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet been reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database "FIM-OCAHO," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

Respondent's Certificate of Incorporation and Articles of Incorporation, Minnesota Secretary of State; Ex. G-10) List of Respondent's employees paid Aug. 25, 2013, and of employees paid Jan. 3, 2011–Aug. 24, 2013; Ex. G-11) List of Respondent's employees paid Jan. 3, 2011–Aug. 24, 2013; Ex. G-12) ICE's spreadsheet with respect to the Count I violations; Ex. G-13) Forms I-9 pertaining to the Count I violations (if available); Ex. G-14) ICE's spreadsheet with respect to the Count II violations; Ex. G-15) Forms I-9 pertaining to the Count II violations; Ex. G-16) ICE's Memorandum to Case File – Determination of Civil Monetary Penalty (Memorandum to Case File); and Ex. G-17) Declaration of HSI Auditor Eric Robertson.

Respondent attached the following proposed exhibit to its prehearing statement: Ex. R-1) Declaration of Mr. Donnelly.

IV. POSITIONS OF THE PARTIES

A. Complainant's Motion

1. Liability

The government contends that it has met its burden of proving there is no genuine issue of material fact with respect to Alpine's liability as charged in the complaint. Alpine is liable for all the violations charged under Count I because the NOI provided that Alpine's Forms I-9 would be inspected on August 29, 2013, and that on August 28, 2013, HSI Auditor Robertson explained to Respondent that no delays would be permitted. *See* Complainant's Motion at 7 (citing Ex. G-17). The government recognizes that Respondent disagrees with this assertion but also states that Respondent "never alleges that a delay in the inspection was ever actually requested by Alpine or that any such delay was ever actually permitted by the Department." *Id.* The government points to the fact that Respondent presented some Forms I-9 on the August 29, 2013 deadline to show that Respondent was aware of this deadline.

ICE states that of the 345 Forms I-9 under Count I, 271 were delivered on October 7, 2013, 40 forms were delivered on November 20, 2013, and 34 forms were never delivered. The government argues that pursuant to statutory authority and OCAHO case law, a delay in the presentation of Forms I-9 during a government audit is a violation of 8 U.S.C. § 1324a(b) and the government is therefore entitled to summary decision as to all of Count I. *Id.* at 9 (citing 8 C.F.R. § 274a.2(b)(2)(ii); *United States v. Noel Plastering & Stucco, Inc.*, 2 OCAHO no. 377, 637, 646 (1991)).

In addition, the government claims that a simple "visual examination" of the 132 Forms I-9 charged under Count II reflects they were not properly completed. Complainant's Motion at 10. ICE included in its Motion a chart that identifies the type(s) of substantive violation present in each Form I-9. (Count II Chart).

2. Penalty

The government assessed a \$770 penalty for each alleged violation pursuant to its agency's internal guidelines, "Form I-9 Fine Matrix." *Id.* (citing ICE, Form I-9 Inspection Overview: Fact Sheet (I-9 Fact Sheet) (Jun. 26, 2013), <http://www.ice.gov/news/library/factsheets/i9-inspection.htm>). The company had a 45% violation rate, as 477 violations were discovered out of 1058 required Forms I-9, which, according to the Form I-9 Fine Matrix, calls for a \$770 penalty for first time offenders. *Id.*

ICE further considered the following five statutory factors in setting the penalty: (1) the size of the business, (2) the good faith of the employer, (3) the seriousness of the violation, (4) whether the individual was an unauthorized alien, and (5) the history of any previous violations of the employer. *Id.* at 13 (citing 8 C.F.R. § 274a.10(b)(2)(i)-(v)). The government determined that the factors had a "collectively neutral" effect on the baseline \$770 penalty amount and noted that its Memorandum to Case File elaborates on its fine assessment. *Id.* at 14 (citing Ex. G-16). Accordingly, ICE seeks a total civil monetary penalty of \$367,290.

B. Respondent's Motion

Respondent did not move for summary decision on the issue of liability for either Count in the complaint; rather, it requests that summary decision be granted in its favor with respect to the penalty and that the undersigned "reject the ICE internal methodology," as has been done in previous OCAHO cases. *See* Respondent's Motion at 1. Specifically, with respect to the five statutory factors, Respondent states that it has no prior history of immigration violations, it "is an extremely small staffing agency business," and it "operate[d] in good faith with respect to its I-9 duties." *Id.* at 2. Alpine does not consider the government's proposed fine to be reasonable and seeks a reduction in the total penalty amount.

C. Complainant's Response

In its Response Opposing Alpine's Motion for Summary Decision (Complainant's Response), ICE asserts that it has set a fair and equitable fine amount because Respondent's "failures to comply with the retention and reporting requirements of the Act were significant." *See* Complainant's Response at 1. ICE further noted that Alpine's paperwork failures led to the hiring of individuals who could not establish their work authorization, including Mayra Arana, who reviewed and signed 432, or 42%, of Alpine's Forms I-9. *Id.* at 2. Moreover, according to ICE, the fact that only 3 of the 543⁴ individuals listed on the NSD were able to provide an employment authorization document (EAD) "strongly suggests the presence of unauthorized

⁴ The NSD actually lists 544 employees. *See* Complainant's Motion, Ex. G-5.

aliens in [R]espondent’s workforce.” *Id.* at 3. ICE concedes that Respondent does not have a previous history of immigration violations and that is it a “relatively small” business. *Id.*

D. Respondent’s Response

Respondent also filed a Response to the Government’s Motion for Summary Decision (Respondent’s Response) and pointed to two recent OCAHO decisions, *United States v. Pegasus Family Restaurant, Inc.*, 12 OCAHO no. 1293 (2016), and *United States v. 3679 Commerce Place, Inc.*, 12 OCAHO no. 1296 (2017), to support its request for a reduction in the civil money penalty. “While Respondent recognizes that errors occurred, the record demonstrates that Respondent did in fact require identity and employment verification documents of its staffing workforce.” *See* Respondent’s Response at 3. Respondent reasserts that it did not engage in any egregious conduct and that ICE inappropriately set a fine in the upper-range of penalty assessments. In addition, Alpine acknowledges the case law in support of ICE’s position with respect to Alpine’s liability for failing to timely present Forms I-9 as charged under Count I. However, Alpine characterizes ICE’s position as “unpersuasive and unacceptable as a matter of due process.” *Id.* at 4. Alpine recognizes that HSI Auditor Robertson affirmed that he did not give Alpine any extension to present their Forms I-9 and contends that “[e]ven if under these facts” the undersigned finds Alpine liable for Count I, the government’s practices of penalizing employers who were under the impression that delivering I-9s at a later date was acceptable should be admonished. “There was no clarity in the communications to put the Respondent on notice that any request for an extension had to be submitted and responded to in writing.” *Id.* at 5. Respondent also proposes that OCAHO “establish a standard that obligates the government to provide Respondent companies with clear notice of the potential monetary repercussions for a failure to produce I-9s on a timely basis.” *Id.*

V. DISCUSSION AND ANALYSIS

A. Applicable Legal Standards

1. Summary Decision

OCAHO regulation 28 C.F.R. § 68.38(c) establishes that an ALJ “shall enter a summary decision for either party if the pleadings, affidavits, material obtained . . . show that there is no genuine issue as to any material fact and that a party is entitled to summary decision.” Relying on United States Supreme Court precedent, OCAHO case law has held that “[a]n issue of material fact is genuine only if it has a real basis in the record” and that “[a] genuine issue of fact is material if, under the governing law, it might affect the outcome of the suit.” *Sepahpour v. Unisys, Inc.*, 3 OCAHO no. 500, 1012, 1014 (1993) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). “In determining whether there is a genuine issue as to a material fact, all facts and reasonable

inferences to be derived therefrom are to be viewed in the light most favorable to the non-moving party.” *United States v. Primera Enters., Inc.*, 4 OCAHO no. 615, 259, 261 (1994) (citations omitted).

“Once the moving party satisfies its initial burden of demonstrating both the absence of a material factual issue and that the party is entitled to judgment as a matter of law, the nonmoving party must come forward with contravening evidence to avoid summary resolution.” *United States v. Four Seasons Earthworks, Inc.*, 10 OCAHO no. 1150, 3 (2012) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)); *see generally* Fed. R. Civ. P. 56(e). OCAHO regulation 28 C.F.R. § 68.38(b) provides that the party opposing the motion for summary decision “may not rest upon the mere allegations or denials” of its pleadings, but must “set forth specific facts showing that there is a genuine issue of fact for the hearing.”

2. Burdens of Proof and Production

In cases arising under 8 U.S.C. § 1324a, the government has the burden of proving by a preponderance of the evidence that the respondent is liable for committing a violation of the employment eligibility verification requirements. *See United States v. Nebeker, Inc.*, 10 OCAHO no. 1165, 4 (2013) (citing *United States v. Am. Terrazzo Corp.*, 6 OCAHO no. 877, 577, 581 (1996)). In addition to proving liability, “[t]he government has the burden of proof with respect to the penalty, *United States v. March Construction, Inc.*, 10 OCAHO no. 1158, 4 (2012), and must prove the existence of any aggravating factor by a preponderance of the evidence, *United States v. Carter*, 7 OCAHO no. 931, 121,159 (1997).” *United States v. Niche, Inc.*, 11 OCAHO no. 1250, 6 (2015).

After the government has introduced evidence to meet its burden of proof, “the burden of *production* shifts to the respondent to introduce evidence . . . to controvert the government’s evidence. If the respondent fails to introduce any such evidence, the un rebutted evidence introduced by the government may be sufficient to satisfy its burden” *United States v. Durable, Inc.*, 11 OCAHO no. 1231, 5 (2014) (affirmance by the Chief Administrative Hearing Officer (CAHO)) (citations omitted).

3. Employment Verification Requirements

Employers must prepare and retain Forms I-9 for employees hired after November 6, 1986, and are required to produce the Forms I-9 for inspection by the government upon three days’ notice. 8 C.F.R. § 274a.2(b)(2)(ii); *United States v. Keegan Variety, LLC*, 11 OCAHO no. 1238, 2 (2014). The form must be prepared and retained for current employees and with respect to former employees “only for a period of three years after that employee’s hire date, or one year after that employee’s termination date, whichever is later.” *United States v. H & H Saguario Specialists*, 10 OCAHO no. 1144, 6 (2012) (quoting 8 U.S.C. § 1324a(b)(3) (“Retention of verification form”); 8 C.F.R. § 274a.2(b)(2)(i); *United States v. Ojeil*, 7 OCAHO no. 984, 982,

992 (1998)). Employers must ensure that an employee complete section 1 of the Form I-9 and attest to his or her citizenship or immigration status in the United States by signing and dating the Form I-9 no later than the first day of employment. 8 C.F.R. § 274a.2(a)(3) (attestation under penalty of perjury), (b)(1)(i)(A). For employees employed for three business days or more, an employer must sign section 2 of the Form I-9 within three days of the employee's first day of employment to attest under penalty of perjury that it reviewed the appropriate documents to verify the individual's identity and employment authorization. 8 C.F.R. § 274a.2(a)(3), (b)(1)(ii).

Failures to satisfy the requirements of the employment verification system are known as "paperwork violations," which are either "substantive" or "technical or procedural." See Memorandum from Paul W. Virtue, INS Acting Exec. Comm'r of Programs, *Interim Guidelines: Section 274A(b)(6) of the Immigration & Nationality Act Added by Section 411 of the Illegal Immigration Reform & Immigrant Responsibility Act of 1996* (Mar. 6, 1997) (Virtue Memorandum) available at 74 No. 16 *Interpreter Releases* 706 (Apr. 28, 1997). Relevant to the instant case, substantive violations include failure to prepare and/or present a Form I-9 and failure to timely present a Form I-9 to the government upon three days' notice. 8 C.F.R. § 274a.2(b)(2)(ii); Virtue Memorandum at 3; see also *United States v. Horno MSJ, Ltd., Co.*, 11 OCAHO no. 1247, 7 (2015) ("Absent an extension of time, an employer cannot avoid liability for failure to timely present I-9 forms by submitting the forms at some point later in the process, whether in the course of the inspection itself or later during the ensuing litigation.") (referencing *United States v. Liberty Packaging, Inc.*, 11 OCAHO no. 1245, 5-6 (2015); *United States v. A&J Kyoto Japanese Rest., Inc.*, 10 OCAHO no. 1186, 7 (2013)). The Virtue Memorandum also characterizes the following as substantive violations: (1) an employee's failure to check the appropriate box identifying his or her citizenship or immigration status in section 1; (2) an employee's failure to sign the attestation in section 1; (3) an employer's failure to record a proper List A document or proper Lists B and C documents in section 2; and (4) an employer's failure to sign the attestation in section 2. Virtue Memorandum at 3-4.

4. Civil Money Penalty

Civil money penalties are assessed for paperwork violations according to the parameters set forth at 8 C.F.R. § 274a.10(b)(2): the minimum penalty for each individual with respect to whom a violation occurred after September 29, 1999, and before November 2, 2015, is \$110, and the maximum is \$1100. See also 28 C.F.R. §§ 85.1, 85.5. In assessing an appropriate penalty, the following statutory factors must be considered: 1) the size of the employer's business, 2) the employer's good faith, 3) the seriousness of the violations, 4) whether or not the individual was an unauthorized alien, and 5) the employer's history of previous violations. 8 U.S.C. § 1324a(e)(5). As stated above, the government bears the burden of proving the existence of any aggravating factor by a preponderance of the evidence.

The weight to be given each of the five factors will depend upon the facts and circumstances of the individual case. *United States v. Raygoza*, 5 OCAHO no. 729, 48, 51 (1995) (noting that each factor’s significance is based on the specific facts in the case). Although 8 U.S.C. § 1324a(e)(5) “requires due consideration of the enumerated factors, it does not mandate any particular outcome of such consideration, and nothing in the statute or the regulations requires in OCAHO proceedings either that the same weight be given to each of the factors in every case, or that the weight given to any one factor is limited to any particular percentage of the total.” *United States v. Ice Castles Daycare Too, Inc.*, 10 OCAHO no. 1142, 6-7 (2011) (internal citations omitted). Further, 8 U.S.C. § 1324a(e)(5) does not rule out consideration of additional factors as may be appropriate in a specific case. *See United States v. Hernandez*, 8 OCAHO no. 1043, 660, 664 (2000). Moreover, while the statute calls for consideration of the five factors in each case, there is otherwise no single method mandated for calculating civil money penalties for violations of 8 U.S.C. § 1324a(a)(1)(B). *See United States v. Senox Corp.*, 11 OCAHO no. 1219, 4 (2014); *see also United States v. The Red Coach Rest., Inc.*, 10 OCAHO no. 1200, 3 (2013) (affirmance by the CAHO noting decisions using varied approaches to calculating penalties); *cf. United States v. Int’l Packaging, Inc.*, 12 OCAHO no. 1275a, 6 (2016) (noting that nothing in 8 U.S.C. § 1324a(e)(5) requires the five statutory factors to be considered exclusively on a binary scale); *United States v. Romans Racing Stables, Inc.*, 11 OCAHO no. 1232, 5 (2014) (affirmance by the CAHO) (noting that a failure to affirmatively establish a statutory factor as aggravating does not require that the factor necessarily be treated as mitigating). ICE’s penalty calculations are not binding in OCAHO proceedings, and the ALJ may examine the penalties *de novo* if appropriate. *See Ice Castles Daycare*, 10 OCAHO no. 1142 at 6.

B. Application

1. Liability

ICE, as the moving party, has provided both arguments and evidence in order to meet its burden of proving by a preponderance of the evidence Counts I and II, its penalty assessment, and its entitlement to summary decision. Consequently, the burden of production shifted to Alpine to produce evidence and arguments to rebut ICE’s case and to rebut the evidence of record supporting ICE’s case. Alpine has not meaningfully challenged its liability under either Count I or II, though it did set forth some arguments and evidence, in the form of Mr. Donnelly’s affidavit, regarding the government’s showing.

Alpine does not dispute that the 477 individuals named in Count I and in Count II were hired after November 6, 1986, as alleged in the complaint. Moreover, ICE demonstrated that these individuals, with the exception of Richard Donnelly, were employees for whom Alpine had to prepare and present Forms I-9 because Alpine paid these individuals wages between January 3, 2011–August 24, 2013, or on August 25, 2013. *See Complainant’s Motion*, Exs. G-10; G-11. Alpine identified the employees paid up until August 25, 2013, as current employees. *See id.*, Ex. G-10. Accordingly, as these individuals earned wages, they qualify as employees of Alpine,

with the exception of Mr. Donnelly. *See* 8 C.F.R. § 274a.1(f). Moreover, because the list identifies when these individuals were hired and when they earned wages, it is evident that they are either current employees or, if applicable, former employees who fall within the pertinent Form I-9 retention period in relation to the date of service of the NOI, August 23, 2013. *H & H Saguario Specialists*, 10 OCAHO no. 1144 at 6.

However, Alpine will not be held liable for any violations with respect to Richard Donnelly's Form I-9 because the evidence of record sufficiently shows that he should not be considered an employee. The record shows that he was paid wages, listing his hire date as January 15, 2002, and that his I-9 was untimely presented to ICE on November 20, 2013. *See* Complainant's Motion, Exs. G-3 at 6; G-12 at 2. However, the record also identifies him as "President and Manager" of Alpine, he signed numerous I-9s as "manager," and the Minnesota Business Corporation/Annual Renewal names him as Alpine's Chief Executive Officer. *Id.*, Exs. G-4 at 8; G-9 at 4. In addition, Alpine contends that Richard Donnelly and Theresa Donnelly are Alpine's only two stockholders and sole executives, which ICE has not disputed. *Id.*, Ex. G-9 at 3. As a general rule, OCAHO case law has recognized that an individual is not an employee of an enterprise if he or she has an ownership interest in, and control over, all or part of the enterprise. *United States v. Speedy Gonzalez Constr. Inc.*, 11 OCAHO no. 1228, 9 (2014) (citing *United States v. Two for Seven, LLC*, 10 OCAHO no. 1208, 7 (2014)). Whether an individual is an employee is a fact-intensive inquiry because "[n]either the form of the business entity nor the individual's title is determinative. It is the function of the individual within the enterprise that governs, and all the incidents of the relationship must be considered." *Clackamas Gastroenterology Assocs. v. Wells*, 538 U.S. 440, 449-51 (2003). Although Respondent did not assert that Richard Donnelly should not be considered an employee, ICE has not submitted sufficient evidence to meet its burden of proof that Mr. Donnelly is properly classified as an employee. Indeed, because he is one of two shareholders in this corporation and acted on behalf of the company during ICE's investigation, it is evident that he has substantial ownership interests and substantial control over Alpine. Consequently, ICE did not meet its burden of establishing that Mr. Donnelly was an employee and that Respondent was required to present a Form I-9 for him. Therefore, the company is not liable for any violation with respect to his I-9. *Speedy Gonzalez*, 11 OCAHO no. 1228 at 9 (citing *United States v. Jalisco's Bar and Grill, Inc.*, 11 OCAHO no. 1224, 9 (2014)).

a. Count I

It is undisputed that Alpine presented to the government Forms I-9 on the following dates: August 29, 2013, August 30, 2013, October 7, 2013, and November 20, 2013. *See* Complainant's Prehearing Statement at 3-4; Respondent's Prehearing Statement at 4; *see also* Complainant's Motion, Exs. G-2-G-4. The NOI advised Alpine that a review of its Forms I-9 was scheduled for August 29, 2013. *See* Complainant's Motion, Ex. G-1. Accordingly, the

Forms I-9 that Alpine delivered to ICE on October 7, 2013, and November 20, 2013,⁵ a total of 311 forms, *see id.*, Exs. G-12–13, were not presented to the government upon three days’ notice. 8 C.F.R. § 274a.2(b)(2)(ii); *Horno MSJ*, 11 OCAHO no. 1247 at 7. According to ICE’s spreadsheet assessing the Count I violations, Alpine presented 271 forms on October 7, 2013, and 40 forms on November 20, 2013. *See* Complainant’s Motion, Ex. G-12. ICE stamped these forms with the date on which they were received on either October 7, 2013, or November 20, 2013. *Id.*, Ex. G-13. Accordingly, ICE has met its initial burden of demonstrating that Alpine is liable for the substantive violation of failing to timely present to ICE these Forms I-9. As discussed above, however, the company is not liable for any violation with respect to Mr. Donnelly’s form and is, therefore, liable for 310 violations of failing to timely present I-9s to the government.

In addition, ICE met its burden of proving that Alpine is liable for the substantive violation of failing to prepare and/or present Forms I-9. Specifically, Alpine did not prepare and/or present the forms for the remaining thirty-four Count I individuals: (1) Dante Acosta, (2) Erick Diaz Aguilar, (3) Raul Arangure, (4) Herald Castillo, (5) Jorge Chavez, (6) Keith Eatmon, (7) Susana Flores, (8) Heriberta Fuentes, (9) Luis A. Garcia, (10) Rodrigo Gatica, (11) Ana Gomez, (12) Heriberto Hernandez, (13) Angelica Gomez Herrero, (14) Guadalupe Jaquez, (15) Anthony Johnson, (16) David Lira, (17) Antonio Medina, (18) Norma Medina, (19) Juana Juarez Meza, (20) Frank Miller, (21) Jose Monroy, (22) Helio Navarro, (23) Emilio Rosales Palacios, (24) Jesus Palafox, (25) Reynaldo Portillo, (26) Jose Luis Rivera, (27) Norma Sandoval, (28) Zita Stewart, (29) Moua Vang, (30) Jesus Vasquez, (31) Paula Vest, (32) Andrew Walker, (33) Daven Williams, and (34) Elmer Zamorano.⁶ *See* Complainant’s Motion, Exs. G-12–G-13. The record does not indicate that Alpine completed Forms I-9 for these individuals and Alpine did not attempt to argue or show otherwise. Alpine is therefore liable for thirty-four violations of failing to prepare and/or present a Form I-9. Overall, ICE met its burden of proof regarding 344 of the 345 Count I violations.

Respondent does not contest that it submitted some forms to Complainant after August 29, 2013. In both its own Motion for Summary Decision and its Response to Complainant’s Motion, Respondent does not facially attempt to rebut Complainant’s showing of liability and focuses rather on the appropriate penalty. Moreover, Respondent acknowledged that “the evidence does support the imposition of civil penalties.” *See* Respondent’s Prehearing Statement at 5. Nevertheless, Respondent does take issue, albeit somewhat obliquely, with the imposition of liability for the forms delivered after August 29, 2013, because ICE accepted them without any warning or notification that they would be deemed untimely and subject to a civil penalty. *See* Respondent’s Response at 4-5. Respondent characterizes ICE’s actions as “unacceptable as a

⁵ The government did not identify any of the Forms I-9 that were delivered on August 30, 2013, as being listed in the complaint. *See* Complainant’s Motion, Ex. G-12.

⁶ This enumeration does not correspond to the enumeration of these employees in the complaint.

matter of due process of law.” *Id.* at 4. It also implicitly raises an argument of equitable estoppel against ICE for accepting the untimely Forms I-9.

These arguments, however, are unpersuasive. The statute, applicable regulations, and OCAHO case law are all clear that any delay in complying with a NOI, unless an employer has been granted an extension, is generally a violation of 8 U.S.C. § 1324a(a)(1)(B), absent a showing of impossibility or a similar valid defense. *See* 8 U.S.C. § 1324a(b)(3); 8 C.F.R. § 274a.2(b)(2)(ii); *Horno MSJ*, 11 OCAHO no. 1247 at 7. The NOI unquestionably indicated that the deadline for producing the requested Forms I-9 was August 29, 2013. *See* Complainant’s Motion, Ex. G-1. It is also undisputed that Respondent did not ask for an extension of time to submit Forms I-9 and that ICE did not affirmatively state that Respondent could take additional time to submit the forms without incurring liability. Although Respondent asserts that it was not aware it was bound by the deadline of August 29, 2013, *see* Respondent’s Prehearing Statement, Ex. R-1 at 1, that assertion is both belied by the record, *see* Complainant’s Motion, Ex. G-1, and foreclosed by law as a defense to liability. Indeed, an employer’s lack of knowledge of IRCA’s paperwork requirements is not an affirmative defense. *United States v. McDougal*, 4 OCAHO no. 687, 862 869 (1994); *see also United States v. Candlelight Inn*, 4 OCAHO no. 611, 212, 230 (1994) (“[R]espondent’s contention that the subpoena was devoid of any warning that its failure to provide the requested documentation by the return date constitutes a violation of IRCA is not a proper defense to the violation alleged.”). The NOI also provided Respondent with a link to the I-9 Fact Sheet, which further states that “[b]y law, employers are provided with at least three business days to produce the Forms I-9,” *see* I-9 Fact Sheet at 1, thereby suggesting that a request for an extension of time could be made. As ICE pointed out, the fact that Respondent delivered some forms on August 29, 2013, and a second group the next day that had been inadvertently overlooked corroborates the claim that Respondent was aware of its obligation to comply with this deadline. Moreover, HSI Auditor Robertson affirms that he spoke with Mr. Donnelly on August 28, 2013, after he had received the NOI, and informed Mr. Donnelly that “no extension would be provided for Alpine Staffing, Inc. to present its Forms I-9 and they were still due by August 29, 2013.” Complainant’s Motion, Ex. G-17 at 1. To be sure, Mr. Donnelly disputes this assertion. *See* Respondent’s Prehearing Statement, Ex. R-1 at 1. However, this factual dispute is ultimately not material in deciding the outcome of this case because there is no indication that Respondent requested an extension of time nor is there an assertion that ICE affirmatively informed Respondent that it would accept the untimely Forms I-9 without penalty. Complainant’s Motion at 7; Respondent’s Response at 4-5.

The undersigned recognizes that Alpine’s failure to timely present the Forms I-9 appears to have been due more to inadvertence than to duplicity, and it notably contacted ICE as soon as it discovered more Forms. *See* Complainant’s Motion, Ex. G-2–G-4. However, as ICE argued and Respondent acknowledged, the regulatory scheme of IRCA’s employer sanctions provisions and OCAHO case law establish that an employer must present to the government Forms I-9 upon three days’ notice, or if an extension of time is granted, by that date. 8 C.F.R. § 274a.2(b)(2)(ii); *Horno MSJ*, 11 OCAHO no. 1247 at 7. The company may have acted with the best intentions in

belatedly presenting these forms upon their discovery but such a “belated presentation” does not alter the fact that it failed to timely present the required Forms I-9 to ICE by the August 29, 2013 date. *See also United States v. Dubois Farms, Inc.*, 2 OCAHO no. 376, 599, 631 (1991). In short, there is no indication that ICE affirmatively misled Respondent or that ICE failed to follow applicable law; accordingly, the record does not establish any violation of due process that would shield Respondent from liability for its untimely-presented Forms I-9.

Respondent also tacitly suggests that an equitable estoppel defense is applicable under the present circumstances, as it posits that ICE’s acceptance of the belated Forms I-9 supports the position that Respondent should not be liable for the substantive violation of untimely presenting the forms to ICE. Whether estoppel may ever lie against the government is an open question, though there are substantial sovereign immunity and separation-of-powers arguments counseling against the idea that the government may be estopped from taking action pursuant to a valid statute. *OPM v. Richmond*, 496 U.S. 414, 423 (1990). Moreover, although musings about whether estoppel may ever run against the government have, over time, “taken on something of a life of [their] own,” the Supreme Court has “reversed every finding of estoppel that [it has] reviewed.” *Id.* at 422. OCAHO case law also indicates that the government is “virtually impervious” to an equitable estoppel claim. *United States v. Hartmann Studios, Inc.*, 11 OCAHO no. 1255, 13 (2015) (citing *United States v. Tom & Yu, Inc.*, 3 OCAHO no. 412, 163, 169 (1992)).

Assuming, without deciding, that estoppel could run against the government in an OCAHO proceeding, such a claim would require, at a minimum, “affirmative misconduct going beyond mere negligence, delay, inaction, or failure to follow internal agency guidelines” and “a showing that the misconduct will cause a serious injustice and that estoppel will not unduly burden the public interest.” *Id.* at 13-14. In the instant case, however, the record reveals no affirmative misconduct by ICE. There was no express oral misstatement by ICE, but even if there were, such a statement is insufficient to estop the government. *Id.* at 14. At most, there was silence from ICE and a subsequent misunderstanding, but that, too, is insufficient to show affirmative misconduct that would otherwise support a claim of estoppel. *Id.* (“If an express oral misstatement cannot estop the United States, an estoppel is a fortiori not created merely by silence or delay.”) (citation omitted); *see also Wade Pediatrics v. Dep’t of Health and Human Servs.*, 567 F.3d 1202, 1207 (10th Cir. 2009) (Gorsuch, J.) (“Silence, of course, does not rise to the level of giving erroneous advice—which is still insufficient to warrant estoppel against the government—let alone to the level of ‘affirmative misconduct’ required to warrant estoppel against the government.”).

In sum, Respondent has neither rebutted its untimely presentation to ICE of the required Forms I-9, nor has it provided sufficient support to establish either a due process violation by ICE or a basis for imposition of estoppel against the government for its conduct. Accordingly, as Complainant met its burden of proving Alpine is liable for failing to present 344 Forms I-9 to

Complainant upon three days' notice, summary decision will be granted as to these violations. *See* Appendix, Count I.

Although Complainant committed no due process violations in inspecting and receiving Respondent's Forms I-9 and Respondent's oblique assertion of estoppel is unavailing, Respondent's broader point is nevertheless well-taken. Respondent was clearly aware of its deadline for the NOI, *see* Complainant's Motion, Ex. G-1, but there appears to have been some subsequent ambiguity or misunderstanding regarding expectations related to its later presentations of Forms I-9. Clearer communication by both sides would certainly have helped the situation and avoided further misunderstanding, though it would not necessarily have absolved Respondent of liability for untimely presenting the Forms I-9. Although the undersigned generally lacks authority to direct the actions of ICE employees in conducting inspections pursuant to 8 U.S.C. § 1324a(b)(3), I would nevertheless encourage both ICE and respondents to clearly articulate their positions to each other in the future if a similar situation were to arise. Indeed, the better practice would be for a respondent to specifically request an extension of time from ICE regarding the submission of any Forms I-9 after the three-day deadline, and for ICE to make its response to such a request clear, rather than for both sides to take actions in a vacuum with widely divergent expectations and without clarifying each side's understanding of the process. Nevertheless, as noted, absent a showing of a due process violation or the establishment of a claim for equitable estoppel, Respondent remains liable for 344 violations in Count I, and Complainant is entitled to summary decision as to liability for those violations. As a final point, the undersigned also notes that I may certainly consider the overall circumstances of a respondent's actions in complying with a NOI in assessing an appropriate civil monetary penalty, particularly in situations where an untimely response was accidental or was due to Forms I-9 that had been inadvertently overlooked, and I have done so in the instant case, as discussed in more detail below.⁷

b. Count II

The government met its burden of proving all but 2 of the 132 Count II violations. The government did not establish Alpine's liability for the I-9 violations pertaining to (18) Jose Santos Castro and (67) Steven Jones. Regarding Mr. Castro's Form I-9, all violations noted are technical or procedural rather than substantive. Mr. Castro did not sign section 1 in the space

⁷ Although the instant case does not appear to present a situation in which Forms I-9 were untimely presented because they had not even been prepared at the time of the Notice of Inspection, such a situation would also warrant close scrutiny of an appropriate penalty amount, albeit potentially toward an aggravated penalty amount. *See, e.g., United States v. Frio Cnty. Partners, Inc.*, 12 OCAHO no. 1276, 18 (2016) ("Failure to complete a Form I-9 before service of the NOI 'cannot be treated as anything less than a serious violation.'") (quoting *United States v. Siam Thai Sushi Rest.*, 10 OCAHO no. 1174, 4 (2013)).

provided under “Employee’s Signature,” but he signed the space under Preparer and/or Translator Certification, which is also in section 1 and directly below “Employee’s Signature.” *See* Complainant’s Motion, Ex. G-15 at 24. Mr. Castro checked the box in section 1 indicating that he is a lawful permanent resident, but did not list his corresponding alien number; however, he did provide that number in section 2. The Form I-9 for Mr. Castro lacks a date of hire in the attestation in section 2, and Respondent used an outdated version of the Form I-9 for Mr. Castro.

Checking the box indicating that the employee is a lawful permanent resident but not providing an alien number is a technical or procedural violation if the alien number is provided in section 2 of the Form I-9. *Virtue Memorandum* at 4. A failure to provide the date of hire in the attestation in section 2 is a technical or procedural violation. *Id.* at 5. Absent any indicia of fraud, duplicity, backdating, or other attempted evasion of the general requirements of 8 U.S.C. § 1324a(b), an employee’s signature and date on the wrong line in section 1 and the use of an outdated version of the Form I-9 are generally technical or procedural violations rather than substantive violations. Accordingly, ICE has not established that Mr. Castro’s Form I-9 contains a substantive violation of the requirements of 8 U.S.C. § 1324a(b) and, thus, is not entitled to summary judgment on that allegation.

ICE also charged Alpine with recording a Social Security number in section 2 that was different than the number that Steven Jones recorded in section 1. *Count II Chart* at 7. A review of Mr. Jones’s Form I-9 does not confirm this assertion. Only the last four digits of his Social Security number are visible on the form and sections 1 and 2 identify the same four digits. Complainant’s Motion, Ex. G-15 at 28. This violation will also be dismissed; therefore, the government is denied summary decision as to the violations pertaining to Mr. Castro and Mr. Jones.⁸

However, ICE met its burden of establishing Alpine’s liability for the remaining 130 Count II violations. *See Appendix, Count II.*⁹ Alpine is liable for the following substantive violations:

⁸ In certain circumstances, repeated technical or procedural violations on multiple Forms I-9 or a cumulative number of technical or procedural violations on an individual Form I-9 may be so overwhelming and pervasive as to undermine the integrity of the use of the Form I-9 altogether and demonstrate a lack of good faith in complying with the requirements of 8 U.S.C. § 1324a(b). In such circumstances, the good-faith compliance and safe harbor provisions for technical and procedural violations in 8 U.S.C. § 1324a(b)(6) may not be applicable; however, the instant case does not present such circumstances, and Respondent cannot be found liable for the violations alleged regarding the Forms I-9 of Mr. Castro and Mr. Jones.

⁹ Although numerous Forms I-9 contained more than one substantive violation, Respondent will only be held liable for one violation per form. In addition, Alpine presented a second Form I-9 on October 7, 2013, for (10) David Avila, (63) Victor Hernandez, (85) Jose Meza, (123) Josue Valdez, and (126) Leslie del Villar. *See Complainant’s Motion, Exs. G-14 at 1-3; G-15 at 14, 75, 103, 147, 152.* Because the government did not charge Alpine with failure to timely present

(1) failure to ensure that the employee signed section 1; (2) failure to ensure that the employee attested to a citizenship or immigration status in section 1, or attested to a status that corresponds to the List A document information, such as an LPR card, in section 2; (3) failure to ensure that the employee provide his or her Alien number or Admission number in section 1 after attesting to LPR status or to being an alien authorized to work and the number is not provided in section 2 or on a legible copy of a document retained with the I-9; (4) failure to review and record a proper List A or Lists B and C document(s); and (5) failure to provide the document number or expiration date of the List A or Lists B and C document(s) and no legible copy of the document is attached. *See* Virtue Memorandum at 3-4; *see also United States v. Ketchikan Drywall Servs., Inc.*, 10 OCAHO no. 1139, 6 (2011), *aff'd sub. nom. Ketchikan Drywall Servs., Inc. v. Immigration and Customs Enforcement*, 725 F.3d 1103 (9th Cir. 2013). In addition, on numerous forms, Alpine is liable for failing to ensure that its employee signed the attestation in section 1 on the date of hire and failing to sign the employer attestation in section 2 within three days of hire. Failure to timely prepare the Form I-9 is a substantive violation. *See United States v. Dr. Robert Schaus, D.D.S.*, 11 OCAHO no. 1239, 7 (2014). Reviewing and recording an expired document in section 2 is also a substantive verification failure, *see* 8 C.F.R. § 274a.2(b)(1)(v), as is the failure to print the name of the employer's authorized representative in section 2. *See Senox*, 11 OCAHO no. 1219 at 7-8 (recognizing that “[o]nly unexpired documents are acceptable for verification purposes” and finding the failure to complete the “print name” portion of section 2 to be a substantive violation); *see also United States PM Packaging, Inc.*, 11 OCAHO no. 1253, 9 (2015). Moreover, failure to complete and date section 3 of a Form I-9 before an employee's work authorization expires is a substantive violation. Virtue Memorandum at 4.

As ICE has met its burden of proving that Alpine is liable for 344 substantive violations charged under Count I and 130 substantive violations charged under Count II, ICE will be granted summary decision as to these 474 violations. As Respondent did not show there is a genuine issue of material fact with respect to its liability, its Motion—to the extent that it cursorily addresses liability—will be denied.

2. Appropriate Penalty

Respondent is liable for 474 substantive violations and the permissible penalties for these violations therefore range from a minimum of \$52,140 to a maximum of \$521,400. ICE's proposed penalty of \$770 per violation places the total civil penalty in the mid to upper-range. The goal in calculating civil penalties is to set a sufficiently meaningful fine to promote future compliance without being unduly punitive. *See United States v. Fowler Equip. Co.*, 10 OCAHO no. 1169, 6 (2013).

these second forms under Count I, the undersigned has only considered the first Forms I-9, which appear to have been delivered on August 29, 2013, for purposes of resolving Count II.

a. Statutory Factors

I have considered the five statutory factors in evaluating the appropriateness of ICE's proposed penalty against Alpine: 1) the size of the employer's business; 2) the employer's good faith; 3) the seriousness of the violations; 4) whether or not the individual was an unauthorized alien; and 5) the employer's history of previous violations. 8 U.S.C. § 1324a(e)(5). In support of its penalty assessment, ICE filed its Memorandum to Case File. *See Complainant's Motion, Ex. G-16.* Alpine generally asserts in both its Motion for Summary Decision and Response that ICE's proposed fine is unreasonably high due to its status as a small business, its lack of a history of prior violations, and its good faith. Respondent contends that although there were errors on its forms, the record nevertheless proves that it verified the employment authorization status of its employees. Respondent did not present any supporting evidence *per se* with respect to the penalty, though I have fully considered its arguments and the declaration of Mr. Donnelly.

The parties agree that Respondent is a small business, and Complainant appropriately mitigated the fine on account of this factor. *Id.* at 1; *see Carter*, 7 OCAHO no. 931 at 162 (noting that OCAHO case law generally considers businesses with fewer than 100 employees to be small businesses). I also find that mitigation is warranted for this factor.

ICE enhanced the penalty by five percent because of the seriousness of the violations, and I also find that this is an aggravating factor. Respondent's failure to prepare and/or present a Form I-9 is among the most serious of paperwork violations. *See United States v. Super 8 Motel*, 10 OCAHO no. 1191, 14 (2013). Failure to timely present Forms I-9 to the government is also serious because during that time, the government has not been able to ensure an employer's compliance with 8 U.S.C. § 1324a(b). Failure to ensure that an employee checks the box attesting to his or her status in section 1 is serious because if the employee fails to provide information sufficient to disclose his or her immigration status on the face of the form, the employee's signature attests to nothing at all. *United States v. Durable, Inc.*, 11 OCAHO no. 1229, 15 (2014) (citing *Ketchikan Drywall Servs.*, 10 OCAHO no. 1139 at 15). Failure to ensure that the employee signs section 1 is also serious because the employee has not attested to being authorized to work in the United States. *See id.* (citing *United States v. Task Force Sec., Inc.*, 4 OCAHO no. 625, 333, 341 (1994)). An employer's failure to complete the attestation in section 2 is also very serious because section 2 is considered "the very heart" of the verification process. *Liberty Packaging*, 11 OCAHO no. 1245 at 9 (citing *See United States v. Acevedo*, 1 OCAHO no. 95, 647, 651 (1989)). The failure to properly verify a document under List A or Lists B and C in section 2 is also serious. *Horno*, 11 OCAHO no. 1247 at 11. Although seriousness of violations is evaluated along a continuum, the violations for which Respondent is liable in both Counts are sufficiently serious to warrant aggravation of the penalty amount.

Complainant considered the remaining three statutory factors to all be neutral. It is uncontested that Alpine does not have a history of previous violations, and because "compliance with the law

is the expectation, not the exception,” *see United States v. Snack Attack Deli, Inc.*, 10 OCAHO no. 1137, 9 (2010), this factor is appropriately treated as neutral.

Concerning the factor of good faith, Complainant explained that Mayra Arana, an Alpine employee who signed scores of the Forms I-9 at issue, appears to be unauthorized for employment in the United States. Complainant’s Motion, Ex. G-16 at 1. Complainant did not allege that Alpine knew Ms. Arana was unauthorized but “it does indicate a lack of necessary internal control in ensuring that employees are authorized to work in the United States.” *Id.* at 2. ICE also recognized that the company joined E-Verify in December 2013, but states this is irrelevant to the good faith assessment because the company joined after the Notice of Intent to Fine was served. Respondent affirms that there is no showing it acted in bad faith. *See* Respondent’s Response at 3.

“[T]he primary focus of a good faith analysis is on the respondent’s compliance *before* the investigation.” *United States v. New China Buffet Rest.*, 10 OCAHO no. 1133, 5 (2010) (citing *United States v. Great Bend Packing Co.*, 6 OCAHO no. 835, 129, 136 (1996); *United States v. Chef Rayko, Inc.*, 5 OCAHO no. 794, 582, 592 (1995) (modification by the CAHO)). Prior to the investigation, it is evident that Alpine was very careless in attempting to meet its statutory obligations. This alone, however, does not warrant a finding of bad faith on behalf of the employer. *Id.* at 6 (citing *Hernandez*, 8 OCAHO no. 1043 at 670); *but see United States v. Williams Produce, Inc.*, 5 OCAHO no. 730, 54, 62 (1995) (noting that lack of reasonable care and diligence in acting in accordance with 8 U.S.C. § 1324a(a)(1)(B) as manifested by a large magnitude of paperwork violations warrants penalty aggravation for a lack of good faith), *aff’d sub nom. Williams Produce, Inc. v. INS*, 73 F.3d 1108 (11th Cir. 1995) (Table). Although ICE established the company’s liability for a considerable amount of violations, most of which are very serious, the record as a whole substantiates treatment of good faith as a neutral factor.

ICE treated the presence of unauthorized workers as a neutral factor stating that of the 1023 Forms I-9 that were presented for inspection, the NSD identified 544 suspected unauthorized workers. Complainant’s Motion, Ex. G-16 at 4. ICE also recognized that Alpine terminated all but two of the individuals named in the NSD. In addition, according to the Memorandum to Case File, “HSI found documentary evidence . . . for twelve (12) Alpine Staffing employees, showing that these employees are not authorized to work in the United States.” *Id.* ICE did not submit this evidence, which purportedly included Forms I-213, Records of Deportable/Inadmissible Alien, as it chose not “to aggravate or mitigate any of the factors on separate violations.” *Id.*

Although ICE suggests there were unauthorized employees in Alpine’s workforce, the record is devoid of any objective evidence to substantiate this claim. *United States v. Hotel Martha Washington Corp.*, 6 OCAHO no. 846, 216, 225 n.5 (1996) (noting that allegations in a brief are not evidence and are not to be treated as such); *see also Liberty Packaging*, 11 OCAHO no. 1245 at 10 (“A Notice of Suspect Documents is not sufficient in itself to establish a worker’s

unauthorized status.”) (citing *United States v. Romans Racing Stables, Inc.*, 11 OCAHO no. 1238, 8 (2014); *United States v. Natural Envtl., Inc.*, 10 OCAHO no. 1197, 4–5 (2013)). As the statute does not call for treatment of the factors on an exclusively binary scale and Respondent has not presented any argument in support of mitigation, I find that this factor, too, is appropriately considered neutral.

Alpine did not specifically argue that a non-statutory factor should be considered, *see United States v. Buffalo Transp., Inc.*, 11 OCAHO no. 1263, 11 (2015) (“A party seeking consideration of a non-statutory factor, such as ability to pay the penalty, bears the burden of showing that the factor should be considered as a matter of equity and that the facts support a favorable exercise of discretion.”) (citation omitted), *aff’d*, 844 F.3d 381 (2d Cir. 2016), but its pleadings do tacitly suggest that additional leniency should be given due to its small size, its good faith in submitting additional Forms I-9 after the NOI, and the nature of its business. *See* Respondent’s Prehearing Statement, Motion, and Response. Federal law and prior OCAHO decisions do generally reflect a public policy for mitigation of penalties in cases involving violations of 8 U.S.C. § 1324a(a)(1)(B) for small businesses, and I find this policy of leniency is an appropriate non-statutory factor warranting some, albeit modest, mitigation of the penalty assessment in Respondent’s case.¹⁰ *See Keegan Variety*, 11 OCAHO no. 1238 at 6 (citing the Regulatory Flexibility Act, 5 U.S.C. § 601 et seq. (2006), amended by § 223(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, 110 Stat. 864 (1996)); *see also United States v. Red Bowl of Cary, LLC, Inc.*, 10 OCAHO no. 1206, 4-5 (2013); *Ice Castles Daycare Too*, 10 OCAHO no. 1142 at 7.

The company also tacitly asserted that the fine should be reduced, in part, because of the nature of its business, a staffing agency: “The actual office staff of the company consisted of just two employees with only approximately 150 temporary workers at the time of the I-9 inspection.” Respondent’s Motion at 2 (citing Ex. R-1). Alpine’s high turnover rate as a staffing company, however, has already been considered in assessing other relevant penalty factors and does not, standing alone, warrant further mitigation. *See Pegasus*, 12 OCAHO no. 1293 at 13. (finding that a high turnover rate is neither inherently mitigating nor aggravating regarding the penalty calculation for violations of 8 U.S.C. § 1324a(a)(1)(b)).

As assessment of good faith normally involves a consideration of pre-investigation behavior by a respondent. *See New China Buffet Rest.*, 10 OCAHO no. 1133 at 5. Nevertheless, although not considered under the rubric of “good faith,” Respondent’s post-investigation behavior warrants some consideration in assessing an appropriate penalty. As discussed, *supra*, although

¹⁰ The issue of whether an employer’s small size is appropriately double-counted for mitigation of a civil money penalty under both section 223(a) of the SBREFA and 8 U.S.C. § 1324a(e)(5) has not been fully addressed in this forum previously. *See Pegasus*, 12 OCAHO no. 1293 at 11 n.11. The instant case, however, does not provide a need to address this issue more explicitly.

Respondent untimely presented a significant number of Forms I-9, the specific circumstances of its untimely presentations caution against a uniform penalty amount for all of those violations. Indeed, based on the specific facts of Respondent's case, it is appropriate to consider its failure-to-present violations along a continuum, particularly in the absence of any apparent improper motive. Thus, Forms I-9 that are untimely presented by a day should warrant a lower penalty than Forms I-9 which are presented months later and certainly a lower penalty than Forms I-9 which are not presented at all. Consequently, in the instant case, the Forms I-9 that Respondent never presented, which are presumed to be ones it never prepared, warrant the highest penalties. The Forms I-9 it presented on November 20, 2013, warrant a slightly lower penalty, and the Forms I-9 it presented on October 7, 2013, warrant a lower penalty still.¹¹

b. Recalculation of the Penalty

After considering the totality of evidence, the arguments of the parties, and the relevant factors to be considered in penalty assessments, the undersigned finds that the penalties proposed by ICE are somewhat disproportionate for some of the violations. Consequently, considering the record as a whole, I will reduce the overall penalty in the exercise of discretion. *See Ice Castles Daycare*, 10 OCAHO no. 1142 at 6. Pursuant to my *de novo* authority, I will maintain the proposed penalty amount of \$770 per violation for the 34 Count I violations for failing to prepare and/or present Forms I-9, as these are the most serious violations overall. The total penalty for these violations is \$26,180. The penalty for the 271 Forms I-9 untimely presented on October 7, 2013, will be reduced to \$500 per violation for a total penalty of \$135,500. The penalty for the 39 Forms I-9 that were untimely presented on November 20, 2013, will be reduced to \$600 per violation for a total penalty of \$23,400. The penalty for the 130 Count II violations is reduced to \$700 per violation, for a total penalty of \$91,000. Accordingly, the total civil monetary penalty for which Alpine is liable is \$276,080.

¹¹ The undersigned recognizes that Respondent's delay in presenting the Forms I-9 may have inadvertently resulted in a modest windfall regarding the overall penalty amount because the penalty amount for the untimely-presented Forms I-9 in October and November 2013 in Count I is ultimately lower than the penalty amount for substantive violations on the timely-presented Forms I-9 in Count II. Thus, somewhat incongruously, any untimely-presented Forms I-9 that also contained substantive violations have received a lower penalty than they likely would have received if they had been timely presented. Nevertheless, that windfall is a result of ICE's charging decisions reflected in the complaint and its election to charge some Forms I-9 as untimely presented rather than as containing substantive violations. Nothing in the instant decision nor in OCAHO's regulations, however, precludes ICE from pleading alternative allegations in future cases should it choose to do so. *See* Fed. R. Civ. P. 8(d)(2) (allowing alternate statements of a claim); 28 C.F.R. § 68.1 (allowing the use of the Federal Rules of Civil Procedure as a guideline for situations not covered by OCAHO rules of procedure).

VI. CONCLUSION

ICE's Motion for Summary Decision is granted in part, pursuant to 28 C.F.R. § 68.38, and denied in part. ICE failed to meet its burden of proof with respect to one of the Count I violations and two of the Count II violations. However, ICE met its burden of proving that Alpine is liable for a total of 474 violations of 8 U.S.C. § 1324a(a)(1)(B), as charged in Counts I and II of the complaint. As ICE demonstrated by uncontroverted proof that no genuine issue of material fact exists with respect to Alpine's liability for 474 of the charged violations, ICE will therefore be granted summary decision as to these violations. For the 474 violations, Alpine is ordered to pay a total civil money penalty in the amount of \$276,080.

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

1. Alpine Staffing, Inc. is a company incorporated in the State of Minnesota.
2. On August 23, 2013, the Department of Homeland Security, Immigration and Customs Enforcement served Alpine Staffing, Inc. with a Notice of Inspection.
3. The Notice of Inspection advised Alpine Staffing, Inc. that the Department of Homeland Security, Immigration and Customs Enforcement scheduled a review of its Forms I-9 for August 29, 2013.
4. Alpine Staffing, Inc. delivered to the Department of Homeland Security, Immigration and Customs Enforcement Forms I-9 on August 29, 2013, August 30, 2013, October 7, 2013, and November 20, 2013.
5. The Department of Homeland Security, Immigration and Customs Enforcement served Alpine Staffing, Inc with a Notice of Intent to Fine on September 15, 2014.
6. Alpine Staffing, Inc. timely requested a hearing on September 25, 2014.
7. The Department of Homeland Security, Immigration and Customs Enforcement did not show by a preponderance of the evidence that Alpine Staffing, Inc. was required to prepare and present a Form I-9 on behalf of Richard Donnelly.
8. The Department of Homeland Security, Immigration and Customs Enforcement did not show by a preponderance of the evidence that Alpine Staffing, Inc. improperly completed the Forms I-9 pertaining to Jose Santos Castro and Steven Jones.

9. Alpine Staffing, Inc. failed to prepare and/or present Forms I-9 for thirty-four employees.
10. Alpine Staffing, Inc. failed to present to the government Forms I-9 for 310 employees upon 3 days' notice.
11. Alpine Staffing, Inc. failed to properly complete Forms I-9 for 130 employees.

B. Conclusions of Law

1. Alpine Staffing, Inc is an entity within the meaning of 8 U.S.C. § 1324a(a)(1) (2012).
2. All conditions precedent to the institution of this proceeding have been satisfied.
3. Alpine Staffing, Inc. is liable for 474 violations of 8 U.S.C. § 1324a(a)(1)(B).
4. OCAHO regulation 28 C.F.R. § 68.38(c) establishes that an Administrative Law Judge “shall enter a summary decision for either party if the pleadings, affidavits, material obtained . . . show that there is no genuine issue as to any material fact and that a party is entitled to summary decision.”
5. “An issue of material fact is genuine only if it has a real basis in the record. A genuine issue of fact is material if, under the governing law, it might affect the outcome of the suit.” *Sepahpour v. Unisys, Inc.*, 3 OCAHO no. 500, 1012, 1014 (1993) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).
6. “Once the moving party satisfies its initial burden of demonstrating both the absence of a material factual issue and that the party is entitled to judgment as a matter of law, the nonmoving party must come forward with contravening evidence to avoid summary resolution.” *United States v. Four Seasons Earthworks, Inc.*, 10 OCAHO no. 1150, 3 (2012) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)); *see generally* FED. R. CIV. P. 56(e).
7. Employers must prepare and retain Forms I-9 for employees hired after November 6, 1986, and are required to produce the Forms I-9 for inspection by the government upon three days' notice. 8 C.F.R. § 274a.2(b)(2)(ii); *United States v. Keegan Variety, LLC*, 11 OCAHO no. 1238, 2 (2014).
8. Employers must ensure that an employee completes section 1 of the Form I-9 and attest to his or her citizenship or immigration status in the United States by signing and dating the Form I-9 no later than the first day of employment. 8 C.F.R. § 274a.2(a)(3), (b)(1)(i)(A).

9. For employees employed for three business days or more, an employer must sign section 2 of the Form I-9 within three days of the employee's first day of employment to attest under penalty of perjury that it reviewed the appropriate documents to verify the individual's identity and employment authorization. 8 C.F.R. § 274a.2(a)(3), (b)(1)(ii).
10. "Absent an extension of time, an employer cannot avoid liability for failure to timely present I-9 forms by submitting the forms at some point later in the process, whether in the course of the inspection itself or later during the ensuing litigation." *United States v. Horno MSJ, Ltd.*, 11 OCAHO no. 1247, 7 (2015) (referencing *United States v. Liberty Packaging, Inc.*, 11 OCAHO no. 1245, 5-6 (2015); *United States v. A&J Kyoto Japanese Rest., Inc.*, 10 OCAHO no. 1186, 7 (2013)).
11. As set forth at 8 U.S.C. § 1324a(e)(5), the following factors must be considered when assessing civil money penalties for paperwork violations: (1) the size of the employer's business; (2) the employer's good faith; (3) the seriousness of the violations; (4) whether the employee is an unauthorized alien; and (5) the employer's history of previous violations.
12. The government has the burden of proof with respect to the penalty, *United States v. March Construction, Inc.*, 10 OCAHO no. 1158, 4 (2012), and must prove the existence of any aggravating factor by a preponderance of the evidence, *United States v. Carter*, 7 OCAHO no. 931, 121, 159 (1997).
13. The weight to be given each of these factors will depend upon the facts and circumstances of the individual case. *United States v. Raygoza*, 5 OCAHO no. 729, 48, 51 (1995).
14. ICE's penalty calculations are not binding in OCAHO proceedings, and penalties may be examined *de novo* by the Administrative Law Judge if appropriate. *See United States v. Ice Castles Daycare Too, Inc.*, 10 OCAHO no. 1142, 6 (2011).
15. The failure to prepare an I-9 at all is among the most serious of possible violations because it frustrates the national policy intended to ensure that unauthorized aliens are excluded from the workplace. *See United States v. Super 8 Motel*, 10 OCAHO no. 1191, 14 (2013).
16. Failure to ensure that an employee checks the box attesting to his or her status in section 1 is serious because if the employee fails to provide information sufficient to disclose his or her immigration status on the face of the form, the employee's signature attests to nothing at all. *United States v. Durable, Inc.*, 11 OCAHO no. 1229, 15 (2014) (citing *United States v. Ketchikan Drywall Servs., Inc.*, 10 OCAHO no. 1139, 16 (2011), *aff'd sub. nom. Ketchikan Drywall Servs., Inc. v. Immigration and Customs Enforcement*, 725 F.3d 1103 (9th Cir. 2013)).
17. Failure to ensure that the employee signs section 1 is a serious violation because the employee has not attested to being authorized to work in the United States. *See United States v.*

Durable, Inc., 11 OCAHO no. 1229, 15 (2014) (citing *United States v. Task Force Sec., Inc.*, 4 OCAHO no. 625, 333, 341 (1994)).

To the extent that any statement of fact is deemed to be a conclusion of law or any conclusion of law is deemed to be a statement of fact, the same is so denominated as if set forth as such.

ORDER

ICE's Motion for Summary Decision is **GRANTED, IN PART**. Alpine Staffing, Inc. is liable for 474 violations of 8 U.S.C. § 1324a(a)(1)(B) and is directed to pay civil penalties in the total amount of \$276,080. The parties are free to establish a payment schedule in order to minimize the impact of the penalty on the operations of the company. All other pending motions are denied as moot.

SO ORDERED.

Dated and entered on May 25, 2017.

James R. McHenry III
Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such order, the

Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.

APPENDIX**Count I**

No.	Employee Name	Violation Alleged	Date I-9 Submitted	Finding
1.	Acevedo, Jose Manuel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
2.	Acosta, Dante	Failure to prepare and/or present I-9		Violation as alleged
3.	Agee, Devorshier	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
4.	Aguilar, Erick Diaz	Failure to prepare and/or present I-9		Violation as alleged
5.	Aguilar, Sandra Diaz	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
6.	Alcaide-Torres, Edidberto	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
7.	Aldana, Hugo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
8.	Allen, Theodore	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
9.	Torres Alva, Sergio	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
10.	Alvarado, Berta	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
11.	Amezcuca, Emmanuel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
12.	Amezcuca, Salvador	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
13.	Anzaldo, Luz	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
14.	Arangure, Jesus	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
15.	Arangure, Raul	Failure to prepare and/or present I-9		Violation as alleged
16.	Vallejo Arevalo, Rosario	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
17.	Arellanes, Luis	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
18.	Arias, Ana	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
19.	Arias, Dina	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged

20.	Arteaga Torres, Sergio	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
21.	Aune, Rose	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
22.	Austin, Lawrence	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
23.	Avendano, Isabel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
24.	Avila, Zaira Maria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
25.	Avila, Violeta	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
26.	Barajas, Heriberto	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
27.	Barban, Alexis	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
28.	Benitez, Costa	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
29.	Benitez, Rutilo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
30.	Bennett, Rodney	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
31.	Bernal, Rosario	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
32.	Bess, Jason	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
33.	Bibriezca, Teresa	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
34.	Blair, Tamarus	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
35.	Boakai, Charles	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
36.	Bonilla, Gabriela	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
37.	Bonilla-Posas, Kelly	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
38.	Borner, William	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
39.	Bothwell, Earl	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
40.	Bruce, Kevin	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
41.	Bucio-Garcia, Martin	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
42.	Buenosaires, Sofia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

43.	Butler, Sammy	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
44.	Cabrera Paz, Jesus	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
45.	Campis, Elmer	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
46.	Cantu, Miguel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
47.	Cardozo, Angelica	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
48.	Carillo, Reyes	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
49.	Castillo, Herald	Failure to prepare and/or present I-9		Violation as alleged
50.	Castillo, Hugo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
51.	Medina Castro, Ana	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
52.	Castro, Nelson	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
53.	Catalan, Ricardo Mena	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
54.	Caufield, Jennifer	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
55.	Chacon Salas, Isidro	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
56.	Chavez, Jorge	Failure to prepare and/or present I-9		Violation as alleged
57.	Chineth, Otis	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
58.	Chineth, Stanley	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
59.	Colin, Roberto	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
60.	Conover, Jacob	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
61.	Contreras, Maria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
62.	Cordero, Omar A.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
63.	Cortes Palacios, Efrain	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
64.	De la Cruz Garcia, Enrique	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

65.	Cruz-Hernandez, Reina	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
66.	Culpepper, Tim	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
67.	DeCamp, Michelle	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
68.	Dennis, Rikki	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
69.	Diaz Perez, Araceli	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
70.	Dill, Earrie	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
71.	Dominguez, Cristina	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
72.	Donnelly, Richard	Failure to timely present I-9	Nov. 20, 2013	Not established
73.	Donyen Dekonte, Patrick	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
74.	Dortu, Archie	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
75.	Dreon, Steve	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
76.	Dweh, Charles	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
77.	Dweh, Olu	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
78.	Eatmon, Keith	Failure to prepare and/or present I-9		Violation as alleged
79.	El-Bassar, George	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
80.	Escamilla, Joel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
81.	Estrada, Lorena	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
82.	Flores, Charles	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
83.	Flores, Gerardo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
84.	Flores, Guadalupe	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
85.	Flores, Monica Ivonee	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
86.	Flores, Rafael	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

87.	Flores, Susana	Failure to prepare and/or present I-9		Violation as alleged
88.	Flores Ramirez, Emilio	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
89.	Fuentes, Elia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
90.	Fuentes, Heriberta	Failure to prepare and/or present I-9		Violation as alleged
91.	Galicia, Angel	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
92.	Parra Gallardo, Jose A.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
93.	Garcia Carrillo, Cristina	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
94.	Garcia, Ivan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
95.	Garcia-Arias, Joaquin	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
96.	Garcia, Jose L.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
97.	Garcia, Juan Manuel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
98.	Garcia, Luis A.	Failure to prepare and/or present I-9		Violation as alleged
99.	Garcia, Manuel M.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
100.	Garcia, Nicanor	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
101.	Gallardo Garcia, Sixto	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
102.	Garcia Fernandez, Maria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
103.	Garcia Vega, Noemi	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
104.	Gatica, Rodrigo	Failure to prepare and/or present I-9		Violation as alleged
105.	Gbelawoe, Kermue	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
106.	Geimah, Monue	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
107.	Gomez, Ana	Failure to prepare and/or present I-9		Violation as alleged
108.	Gomez, Edgar L.	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged

109.	Gonzalez, Jonathan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
110.	Gonzalez, Jose	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
111.	Gonzalez, Martin M.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
112.	Gonzalez, Nicolasa	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
113.	Gonzalez Perez, Juana	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
114.	Gronberg, Dylan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
115.	Guardia, Annabil	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
116.	Guevara, Edgar	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
117.	Gumphrey, Brian	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
118.	Gutierrez, Araceli	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
119.	Hampton, Tara	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
120.	Hamre, Eric	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
121.	Harris, Sabrina	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
122.	Hawkins, Mary	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
123.	Hayes, Adam	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
124.	Helmbrecht, David	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
125.	Her, Lor	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
126.	Hermosillo, Jose	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
127.	Hernandez, Elizabeth	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
128.	Hernandez, Elsa	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
129.	Hernandez, Heriberto	Failure to prepare and/or present I-9		Violation as alleged
130.	Hernandez, Javier	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
131.	Hernandez Llamas, Joseph	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

132.	Hernandez, Josue Ruiz	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
133.	Hernandez, Juan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
134.	Hernandez, Maria G.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
135.	Herrero, Angelica Gomez	Failure to prepare and/or present I-9		Violation as alleged
136.	Hurtado, Veronica	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
137.	Ibarra, Reinaldo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
138.	Ismael, Ilham	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
139.	Jaimes, Angelica	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
140.	Jaquez, Guadalupe	Failure to prepare and/or present I-9		Violation as alleged
141.	Jean-Baptiste, Willy	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
142.	De Jesus, Aaron	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
143.	Jimenez, Efrain	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
144.	Jimenez, Fernando	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
145.	Jimenez, Luis	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
146.	Jimenez, Ricardo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
147.	Jimenez, Rosa	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
148.	Johnson, Adella	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
149.	Johnson, Anthony	Failure to prepare and/or present I-9		Violation as alleged
150.	Johnson, Scott	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
151.	Johnston, Dylan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
152.	Jordan, Carlos	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
153.	Juarez, Armando	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

154.	Keller, Tammie	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
155.	King, Phillip	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
156.	Kollie, Yango Moses	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
157.	Kong, Tengyee	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
158.	Kota, Charlene	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
159.	Lawani, Geraldo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
160.	Leiva, Mary	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
161.	Lema, Dennis	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
162.	Lezama, Roman	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
163.	Lira, David	Failure to prepare and/or present I-9		Violation as alleged
164.	Lopez, Flora Valentin	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
165.	Lopez Cortes, Margarito	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
166.	Luna, Xiomara	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
167.	De la Luz, Hector	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
168.	Macario Zamora, Grisela	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
169.	Macario, Veronica	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
170.	Machuca Ginez, Martin	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
171.	Macias, Luis	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
172.	Macias, Ricardo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
173.	Madison, Korvarius	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
174.	Manzur, Maria Flor	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
175.	Martinez, Antelmo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
176.	Martinez, Bernardo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

177.	Cruz Martinez, Cesar	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
178.	Cano Martinez, Diana	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
179.	Martinez, Guillermo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
180.	Martinez, Pablo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
181.	Martinez-Velasco, Eduardo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
182.	Masan, Muhammad	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
183.	Meda, Jose M.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
184.	Medina, Antonio	Failure to prepare and/or present I-9		Violation as alleged
185.	Medina, David Alonso	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
186.	Medina, Luis G.	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
187.	Medina, Norma	Failure to prepare and/or present I-9		Violation as alleged
188.	Melendez, Oscar	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
189.	Mendez, J. Francisco	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
190.	Mendoza, Jonathon	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
191.	Mendoza Juarez, Sylvia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
192.	Meza, Juana Juarez	Failure to prepare and/or present I-9		Violation as alleged
193.	Meza, Rosa	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
194.	Marquez Millan, Maria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
195.	Miller, Angela,	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
196.	Miller, Frank	Failure to prepare and/or present I-9		Violation as alleged
197.	Monroy, Jose	Failure to prepare and/or present I-9		Violation as alleged
198.	Montgomery, Tahon	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

199.	Mora Ahumada, Isidro	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
200.	Morataya, Yanira	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
201.	Moua, Chayeng	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
202.	Muñoz, Genaro	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
203.	Murphy, Tyler	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
204.	Navarro, Ernesto	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
205.	Navarro, Faustino	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
206.	Navarro, Helio	Failure to prepare and/or present I-9		Violation as alleged
207.	Nguyen, Tuan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
208.	Olguin, Roberto	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
209.	Moreno Olivera, Gabriela	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
210.	Orozco, Isabel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
211.	Ortega, Claudia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
212.	Ortega, Jose M.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
213.	Ortiz, Gerardo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
214.	Ortiz, Maria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
215.	Rosas Ortiz, Minerva	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
216.	Oshin, Victor	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
217.	Pacheco, Miguel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
218.	Palacios, Emilio Rosales	Failure to prepare and/or present I-9		Violation as alleged
219.	Palafox, Jesus	Failure to prepare and/or present I-9		Violation as alleged
220.	Palma, Iran	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

221.	Parker, Devan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
222.	Perdomo-Salazar, Jose Juan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
223.	Perea, Ciria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
224.	Perez, Carmen	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
225.	Perez, Rico	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
226.	Perez Jarquin, Rene	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
227.	Petersen, Cole	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
228.	Pliego, Gilberta	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
229.	Ponce, Anastacio	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
230.	Solis Ponce, Esmeralda	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
231.	Popoca, Juan Carlos	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
232.	Portillo, Lesbia Nineth	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
233.	Portillo, Reynaldo	Failure to prepare and/or present I-9		Violation as alleged
234.	Posas Ahamirano, Agustin	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
235.	Powell, Julius	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
236.	Powell, Tavares	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
237.	Powell, Teriann	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
238.	Powell, Tishyra	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
239.	Pulgo, Ernesto	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
240.	Quaye, Josephine	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
241.	Quaye, Mark	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
242.	Ramirez, Jose D.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

243.	Ramirez, Marvin	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
244.	Ramirez, Oscar	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
245.	Ramses, Alejandro	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
246.	Rangel, Fernando	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
247.	Rangel, Jose	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
248.	Recinos, Guillermina	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
249.	Resemius, Wanda	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
250.	Reyes, Lorezana	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
251.	Reyes-Salomon, Josue	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
252.	Rios, Miguel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
253.	Ristola, Jane	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
254.	Rivera, Jose Luis	Failure to prepare and/or present I-9		Violation as alleged
255.	Ruacho Rivera, Jose	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
256.	Rivera, Luis R.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
257.	Rivera, Melvin S.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
258.	Rivera, Ruth	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
259.	Vergara Robinson, Reyna	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
260.	Robinson-Pierre, Yvette	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
261.	Robles Benitez, Alvaro	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
262.	Roche, Shane	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
263.	Rodriguez, Jose J.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
264.	Rodriguez, Yesenia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

265.	Rodriguez-Castro, Tiburcio	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
266.	Rojas, Jose C.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
267.	Rojas, Juan Manuel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
268.	Romero, Alfredo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
269.	Garcia Romero, Carlos	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
270.	Romero, Ismael	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
271.	Romero, Tomasa	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
272.	De la Rosa, Aida	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
273.	Rosado, Mara	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
274.	Solozzamo Rosales, Silvia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
275.	Rosales-Vargas, Daniel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
276.	Rosas, Maria	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
277.	Soto Rubio, Oscar	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
278.	Sakpeidah, Karzon	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
279.	Sakpeidah, Lovette	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
280.	Salazar, Eduardo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
281.	Sanchez, Fabiola	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
282.	Galarza Sanchez, Mayra	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
283.	Sanchez, Oscar	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
284.	Sanchez, Tania	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
285.	Sanchez Rodriguez, Felipe	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
286.	Sandoval, Frederick	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

287.	Sandoval, Joel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
288.	Sandoval, Norma	Failure to prepare and/or present I-9		Violation as alleged
289.	Santiago Hernandez, Elizabeth	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
290.	Scott, Tom	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
291.	Seals, Brandon	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
292.	Sente, Luz Maria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
293.	Sierra Trinidad, Florentino	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
294.	Slovinski, George	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
295.	Solis, Manuel	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
296.	Gonzales Sosa, Yuridia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
297.	Soto, Hope	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
298.	Stewart, Zita	Failure to prepare and/or present I-9		Violation as alleged
299.	Sultan, Mohamed	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
300.	Tapia, Arturo	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
301.	Tapia Osorio, Silvia	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
302.	Tapia Sotero, Bonfil	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
303.	Tarpeh, Paye	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
304.	Thompson, Michael	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
305.	Tlaseca Ocampo, Reyna	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
306.	Toe, Christopher	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
307.	Torres Lozano, Alvaro	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
308.	Torres, Anselmo	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged

309.	Valdez Torres, Fermina	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
310.	Torres-Ortiz, Carlos	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
311.	Tuott, Brianna	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
312.	Urzua, Yosimi	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
313.	Vah, Malcolm	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
314.	Valdepena, Andres	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
315.	Valdez, Sandra	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
316.	Valenzuela, Gloria	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
317.	Valerdi, Omar	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
318.	Valverde, Karen I.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
319.	Vang, George	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
320.	Vang, Joshua	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
321.	Vang, Michael	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
322.	Vang, Moua	Failure to prepare and/or present I-9		Violation as alleged
323.	Varela Leal, Roberto	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
324.	Vasquez, Ana	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
325.	Vasquez, Jesus	Failure to prepare and/or present I-9		Violation as alleged
326.	Vazquez, Hector	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
327.	Vazquez, Melissa	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
328.	Vazquez Solis, Gabriela	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
329.	Vega, Catalina	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
330.	Velazquez, Olga	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
331.	Velazquez, Martha	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged

332.	Ventura, Juan	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
333.	Ventura, Montserrat	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
334.	Vera, Andres	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
335.	Vest, Paula	Failure to prepare and/or present I-9		Violation as alleged
336.	Villalta, Sandra	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
337.	Villalta, Yessenia C.	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
338.	Villanueva Salazar, Angelina	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
339.	Villatoro, Janett	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
340.	Walker, Andrew	Failure to prepare and/or present I-9		Violation as alleged
341.	Weaver, Joseph	Failure to timely present I-9	Nov. 20, 2013	Violation as alleged
342.	Williams, Daven	Failure to prepare and/or present I-9		Violation as alleged
343.	Yang, Kongchar	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
344.	Zamarripa Valdez, Maria	Failure to timely present I-9	Oct. 7, 2013	Violation as alleged
345.	Zamorano, Elmer	Failure to prepare and/or present I-9		Violation as alleged

Count II

No.	Employee Name	Violation(s) Alleged	Finding
1.	Abernathy, Kenneth	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire; name of employer's authorized representative not printed in section 2	Violation as alleged
2.	Aguilar, Kimberly	No employee signature in section 1	Violation as alleged
3.	Alvarez, Erick	Multiple boxes checked for citizenship or immigration status attestation in section 1	Violation as alleged
4.	Anzaldo Jr., Hector	Employee attestation in section 1 not completed at time of hire;	Violation as alleged

5.	Ardid, Miguel	Reviewed and recorded expired LPR card in section 2	Violation as alleged
6.	Argueta, Lidia	Name of employer's authorized representative not printed in section 2	Violation as alleged
7.	Arroyo, Armando	No employee signature in section 1	Violation as alleged
8.	Arteaga, Maria Guadalupe	Noncitizen national of the United States attested to in section 1 but LPR card recorded in section 2	Violation as alleged
9.	Cruz-Avila, Alvina	Expiration date of LPR card not provided in section 2 and legible copy of document not attached	Violation as alleged
10.	Avila, David	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
11.	Aviles, Juan Diego	Employee attestation in section 1 not completed at time of hire; expiration date of LPR card not provided in section 2 and legible copy of document not attached; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
12.	Ayala, Rosendo	No employer signature in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
13.	Bailey, James	Employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
14.	Bassett, Michael	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire; driver's license recorded in section 2 but as "applied for"	Violation as alleged
15.	Blazevic, Richard	Name of employer's authorized representative not printed in section 2	Violation as alleged
16.	Brumskine, Robert	Expiration date of LPR card in section 2 not provided and legible copy of document not attached; reviewed and recorded expired driver's license in section 2	Violation as alleged
17.	Bullchild, Naomi	Reviewed and recorded expired state ID card in section 2	Violation as alleged
18.	Santos Castro, Jose	No employee signature in section 1	Not established
19.	Castro, Oliverio Santos	No citizenship or immigration status attestation in section 1	Violation as alleged

20.	Chacon, Jorge	Employee attestation in section 1 not completed at time of hire; alien number or admission number not provided in section 1 after box checked for alien authorized to work (and not provided in section 2 or on a legible copy attached to form) ¹	Violation as alleged
21.	Chavez, Juan	No employee signature in section 1	Violation as alleged
22.	Chineth, Elijah	No employee signature in section 1	Violation as alleged
23.	Ciriaco, Paul	Document number and expiration date of U.S. passport not provided in section 2 and legible copy of document not attached	Violation as alleged
24.	Columbus, Kevin	No employee signature in section 1; no citizenship or immigration status attestation in section 1	Violation as alleged
25.	Cornejo, Rafael	No employer signature in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
26.	Cosentino, Nicholas	No employee signature in section 1	Violation as alleged
27.	Covarrubias, Luis	No employee signature in section 1	Violation as alleged
28.	Crudup, Brian	No employee signature in section 1	Violation as alleged
29.	Cruz, Oscar	Multiple boxes checked for citizenship or immigration status attestation in section 1	Violation as alleged
30.	Dalhoe, Chris	No employee signature in section 1	Violation as alleged
31.	Daniels, Nichole	No employee signature in section 1	Violation as alleged
32.	David, Roberto	Two List C documents reviewed and recorded in section 2	Violation as alleged
33.	Diaz-Aguilar, Sandra	No employee signature in section 1	Violation as alleged
34.	Diaz-Aguilar, Yesica	No employee signature in section 1	Violation as alleged
35.	Diegnau, Kayla	No employee signature in section 1	Violation as alleged
36.	Duran, Philip	Multiple boxes checked for citizenship or immigration status attestation in section 1	Violation as alleged

¹ Mr. Chacon wrote an eleven-digit number next to the box attesting to being an alien authorized to work in section 1. *See* Complainant's Motion, Ex. G-15 at 26.

37.	Erickson, Philip	No employee signature in section 1	Violation as alleged
38.	Garcia Espinoza, Santiago	No employee signature in section 1; improper document number of LPR card recorded in section 2 and no legible copy of document attached	Violation as alleged
39.	Estrada, Omar	No employee signature in section 1	Violation as alleged
40.	Fair, Wesley	Employee attestation in section 1 not completed at time of hire	Violation as alleged
41.	Fell, Linsey	No employee signature in section 1	Violation as alleged
42.	Freeman, Alvin	No employee signature in section 1	Violation as alleged
43.	Fregoso Flores, Rigoberto	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
44.	Gaffaney, Scott	No employee signature in section 1	Violation as alleged
45.	Galicia, Angel	No employee signature in section 1	Violation as alleged
46.	Galicia, Miguel	No employee signature in section 1	Violation as alleged
47.	Gallo, Zulema	Expiration date of state ID not provided in section 2 and legible copy of document not attached	Violation as alleged
48.	Galvan, Maria	Citizen or national of the United States checked in section 1 but LPR card recorded in section 2	Violation as alleged
49.	Garcia, Cesar	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
50.	Garcia, Ignacio	Expiration date of LPR card not provided in section 2 and legible copy of document not attached	Violation as alleged
51.	Gilsrud, Dustin	Expiration date of driver's license not provided in section 2 and legible copy of document not attached	Violation as alleged
52.	Godinez, Irma	Noncitizen national of the United States attested to in section 1 but LPR card recorded in section 2	Violation as alleged
53.	Gomar, Ana	Employer attestation in section 2 not completed within 3 days of hire	Violation as alleged

54.	Graham, Steven	Reviewed and recorded improper List C document in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
55.	Guevara, Ulises	Reviewed and recorded expired state ID in section 2	Violation as alleged
56.	Gutierrez, Jose Luis	No citizenship or immigration status attestation in section 1	Violation as alleged
57.	Paredes Harris, Violeta	Alien number not provided in section 1 after box checked for LPR (and not provided in section 2 or on a legible copy attached to form)	Violation as alleged
58.	Heard, Dennis	Reviewed and recorded expired driver's license in section 2	Violation as alleged
59.	Hernandez, Herminia	No citizenship or immigration status attestation in section 1; no employee signature in section 1	Violation as alleged
60.	Hernandez, Jose I.	Alien number or admission number not provided in section 1 after box checked for alien authorized to work (and not provided in section 2 or on a legible copy attached to form); section 3 not completed after EAD's expiration date	Violation as alleged
61.	Hernandez, Luz	Employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
62.	Hernandez, Manuel	No employee signature in section 1	Violation as alleged
63.	Hernandez, Victor	Multiple boxes checked for citizenship or immigration status attestation in section 1	Violation as alleged
64.	Hollins, Jeffrey	Expiration date of state ID not provided in section 2 and legible copy of document not attached; name of employer's authorized representative not printed in section 2	Violation as alleged
65.	Horton, Tyler	No employee signature in section 1	Violation as alleged
66.	Janzen, Andrea	Expiration date of driver's license not provided in section 2 and legible copy of document not attached	Violation as alleged
67.	Jones, Steven	Social security number recorded in section 1 different than number recorded in section 2	Not established
68.	Juarez, Salvador	Name of employer's authorized representative not printed in section 2	Violation as alleged
69.	Khang, Xai	Employee attestation in section 1 not completed at time of hire; Social Security	Violation as alleged

		number provided in section 1 different than number recorded in section 2; name of employer's authorized representative not printed in section 2	
70.	Labrado, Jasmin	Issuing authority, document number, and expiration date of birth certificate not provided in section 2 and legible copy of document not attached	Violation as alleged
71.	Larson, Jason	Reviewed and recorded only List B document in section 2	Violation as alleged
72.	Lee, Wa	No employer signature in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
73.	Lema, Gloria	Multiple boxes checked for citizenship or immigration status attestation in section 1	Violation as alleged
74.	Lemus Chavez, Rosalinda	Noncitizen national of the United States attested to in section 1 but LPR card recorded in section 2	Violation as alleged
75.	Lewno, Tyler Lee	No citizenship or immigration status attestation in section 1; two List C documents recorded in section 2	Violation as alleged
76.	Lien, Debra	No employee signature in section 1	Violation as alleged
77.	Mendoza Linares, Adan	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
78.	Livingston, Jim	No employee signature in section 1	Violation as alleged
79.	Lopez, Gualberto	Employer attestation in section 2 not completed within 3 days of hire date	Violation as alleged
80.	Lopez Cabrera, Thelma Yohana	Reviewed and recorded expired LPR card in section 2	Violation as alleged
81.	Lozada, Jorge	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
82.	Cruz Martinez, Micaelina	No employer signature in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
83.	Mattson, Alex	Reviewed and recorded expired state ID in section 2	Violation as alleged
84.	Lopez Mendez, Antonio	No employee signature in section 1	Violation as alleged
85.	Meza, Jose	Employee attestation in section 1 not completed at time of hire; employer	Violation as alleged

		attestation in section 2 not completed within 3 days of hire; reviewed and recorded expired LPR card in section 2	
86.	Miller, Jeremy	No citizenship or immigration status attestation in section 1	Violation as alleged
87.	Molina, Juan Carlos	Expiration date of LPR card not provided in section 2 and legible copy of document not attached	Violation as alleged
88.	Morales, Geronimo	No employer signature in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
89.	Munos, Victor	Expired LPR card reviewed and recorded in section 2	Violation as alleged
90.	Muñoz, Williams	Reviewed and recorded expired LPR card in section 2	Violation as alleged
91.	Nickson, Floysius	Reviewed and recorded expired state ID in section 2	Violation as alleged
92.	Olivares, Anilu	No employee signature in section 1	Violation as alleged
93.	Ouma, Fredrick	Noncitizen national of the United States attested to in section 1 but LPR card recorded in section 2	Violation as alleged
94.	Patten, Lynne	No employee signature in section 1	Violation as alleged
95.	Peeler, Travis	Name of employer's authorized representative not printed in section 2	Violation as alleged
96.	Peralta Estrada, Rafaela	Alien number or Admission number not provided in section 1 after box checked for alien authorized to work (and not provided in section 2 or on a legible copy attached to form); expiration date of EAD not provided in section 2 and legible copy of document not attached	Violation as alleged
97.	Perez, Arturo	No employee signature in section 1	Violation as alleged
98.	Perez, Carlos	No employee signature in section 1	Violation as alleged
99.	Perez Diaz, Hector	U.S. citizenship attested to in section 1 but recorded LPR card in section 2; expired LPR card reviewed and recorded in section 2	Violation as alleged
100.	Perez, Karla	No employee signature in section 1	Violation as alleged
101.	Perez, Nohemi	No employee signature in section 1	Violation as alleged

102.	Phillips, Erica	Reviewed and recorded only List B document in section 2	Violation as alleged
103.	Popoca Colin, Evelyn	Employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
104.	Porter, Michael	Reviewed and recorded expired state ID in section 2	Violation as alleged
105.	Portillo, Brandon	Reviewed and recorded two List C documents in section 2	Violation as alleged
106.	Radoini, Mustapha	Reviewed and recorded improper List A document in section 2	Violation as alleged
107.	Jimenez Ramos, Alejandro	No employee signature in section 1	Violation as alleged
108.	Raymond, Jeffrey	No employee signature in section 1	Violation as alleged
109.	Ocampo Rios, Alberto	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
110.	Rock, James	Reviewed and recorded expired state ID in section 2	Violation as alleged
111.	Cortez Rojas, Benito	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
112.	Rowe, Steven	No employee signature in section 1	Violation as alleged
113.	Ruiz, Ivan	No employee signature in section 1	Violation as alleged
114.	Salomon, Maria	No employee signature in section 1	Violation as alleged
115.	Sanaki, Matthew	Reviewed and recorded expired state ID in section 2	Violation as alleged
116.	Sibrian, Elizabeth	No employee signature in section 1; no employer signature in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
117.	Smith, Gregory	Reviewed and recorded expired driver's license in section 2	Violation as alleged
118.	Stewart, Dana	Reviewed and recorded expired state ID in section 2	Violation as alleged
119.	Stueve, David	No employee signature in section 1	Violation as alleged
120.	Teuber, Daniella	No employee signature in section 1	Violation as alleged
121.	Medina Tovar, Manuel	Alien number or Admission number not provided in section 1 after box checked	Violation as alleged

		for alien authorized to work (and not provided in section 2 or on a legible copy attached to form); ² expiration date of EAD in section 2 not provided and legible copy of document not attached	
122.	Guerrero Valdez, Javier	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
123.	Valdez, Josue	No employee signature in section 1	Violation as alleged
124.	Vang, Tou	Name of employer's authorized representative not printed in section 2	Violation as alleged
125.	Vazquez, David	No citizenship or immigration status attestation in section 1	Violation as alleged
126.	Del Villar Martinez, Leslie	Employee attestation in section 1 not completed at time of hire; employer attestation in section 2 not completed within 3 days of hire	Violation as alleged
127.	Vivar, Oscar	Employee attestation in section 1 not completed at time of hire	Violation as alleged
128.	Lopez Viveros, Anayely	No employee signature in section 1	Violation as alleged
129.	Williams, Rodney	Name of employer's authorized representative not printed in section 2	Violation as alleged
130.	Wojcik, Steven	Expiration date of driver's license not provided in section 2 and legible copy of document not attached	Violation as alleged
131.	Xiong, Tong	No employer signature in section 2; name of employer's authorized representative not printed in section 2	Violation as alleged
132.	Yañez, Vicente	Expiration date of state ID not provided in section 2 and legible copy of document not attached	Violation as alleged

² Mr. Medina Tovar did write his Alien number or Admission number in section 1 next to his immigration status attestation. *See* Complainant's Motion, Ex. G-15 at 144. Nevertheless, his Form I-9 contained one other substantive violation.