

Immigration

President of Temporary Labor Company Sentenced for Conspiracy to Provide Illegal Workers

By Mary M. ("Peggy") Godar

U.S. Immigration and Customs Enforcement (ICE) continues to target employers who knowingly hire unauthorized workers. Maximino Garcia, President of Garcia Labor Company of Ohio, Inc. and Garcia Labor Company, Inc., pled guilty to one count of conspiracy to encourage and induce and aid and abet illegal aliens to reside or remain in the U.S. for the purpose of commercial advantage or private commercial gain. Mr. Garcia was sentenced to 15 months imprisonment followed by 3 years of supervised release, fined \$25,000, and ordered to forfeit \$12 million representing the proceeds of the crime.

The steps leading up to the arrest and conviction of Mr. Garcia are a lesson in what employers should not do. First, the Garcia Labor Company improperly completed I-9s. An I-9 Employment Verification Form must be completed by every new hire. The new hire must provide documentation to establish their identity and employment eligibility. Garcia Labor Company's I-9s were pre-printed with two specific forms of identification which established identity and employment eligibility. Employers must complete the I-9 based on the documents presented by the employee and should not have pre-printed forms.

In addition, the Social Security Administration sent "No-match letters" to Garcia Labor Company in 2002, 2003, and 2004. The Garcia Labor Company, however, continued to employ the individuals listed in the No-match letters. No Match letters are generated when the social security number provided by an employee does not match the information in the Social Security Administration's database. A letter is generated to notify the employer to correct the information. An employer upon receipt of such a letter from Social Security must take steps to correct the information. First, the employer must check their records to ensure that they did not make an error regarding the employee's information, such as misspelling the individual's name or transposing numbers when completing the withholding documentation. If the company information is accurate, they must notify the employee(s) and instruct them to go to the Social Security Administration to correct the discrepancy.

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According to Julie Myers, Assistant Secretary for U.S. Immigration and Customs Enforcement (ICE), "Companies that utilize cheap, illegal alien labor as a business model should be on notice. ICE is dramatically enhancing its enforcement efforts against employers that knowingly employ illegal aliens." Employers can take steps to ensure that they are in compliance with immigration



Client Advisory

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laws by properly completing I-9s, providing training on I-9 completion, auditing I-9 records, and having procedures in place to address No Match letters.

Attorneys at Frost Brown Todd advise and train employers on immigration compliance issues. We routinely advise employers on how to implement policies to ensure immigration compliance. Please contact a member of the [Immigration Practice Group](#) to discuss this and other developments in this area of the law.

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