



Mr. Lawrence Rosenberg
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001-2113

September 18, 2014

Dear Mr. Rosenberg:

This is in response to your June 5, 2012 Freedom of Information Act/Privacy request on behalf of your client, Sholom Rubashkin, to this office for all information relating to the raid of Agriprocessors Inc., and the investigation of and prosecution of Mr. Rubashkin as well as other matters. Your request was forwarded to this office for direct response via email on June 6, 2013, from the Office of the Solicitor and has been assigned case number 213050. I am responding on behalf of the Office of Inspector General.

The policy of the Inspector General is to make, to the extent possible, full disclosure of our identifiable records in accordance with the provisions of the Freedom of Information Act. Accordingly, I am enclosing a copy of all disclosable materials. However, certain information such as individual's names and personally identifying information and other exempt information has been redacted from the enclosed documents. Three pages of grand jury information have been withheld in their entirety (as noted within the enclosures); pursuant to Exemption 3. The redacted information and withheld pages are subject to various FOIA exemptions as discussed below.

Exemption (b)(3) of the Freedom of Information Act protects from disclosure material(s) the release of which is prohibited by another statute. In this case, information has been determined to be exempt from disclosure under Rule 6(e) of the Federal Rules of Criminal Procedure which provides that parties in possession of information, which is part of a grand jury proceeding, may make disclosure only by court order. In this case, pages were withheld as grand jury material under Rule 6(e).

Exemption (b)(6) authorizes the withholding of names and details of personal information in personnel, medical and similar files, which, if disclosed to the public, would constitute an unwarranted invasion of personal privacy. Information contained on several pages redacted under Exemption 7c are also exempt under Exemption 6.

Exemption (b)(7)(C) of the FOIA authorizes the withholding of names and details of personal information related to various individuals that is contained in investigative files which, if disclosed to the public, could reasonably be expected to constitute an unwarranted invasion of personal privacy. In this case, individuals' names and information that would reveal persons' identities have been deleted pursuant to 5 U.S.C. 552(b)(7)(C).

You have the right to appeal my decision to (partially) deny your request within 90 days from the date of this letter. Should you decide to do this, your appeal must state, in writing, the grounds for appeal, together with any statement or arguments. Such an appeal should be addressed and directed to the Solicitor of Labor, citing OIG/FOIA No.213050 Room N-2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Please refer to the Department of Labor regulations at 29 C.F.R. 70.22 for further details on your appeal rights.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Finally, documents totaling 395 pages have been referred to the FOIA Offices of the Department of Homeland Security/Immigration and Customs Enforcement (98 pages), Department of Justice /U.S. Marshals Service (9 pages), Department of Justice /Executive Office of United States Attorneys (25 pages), Bureau of Prisons (3 pages), DOL/Employment and Training Administration/Wage Hour Division (248 pages), and DOL/ Employment Training Administration / Office of Foreign Labor Certification (12 pages), for review and release determination. You will receive a direct response from their offices. If you have any questions, feel free to contact me at 202-693-5116.

Sincerely,



Kim Pacheco
Disclosure Officer

Enclosures
248 pages

U.S. Department of Labor

Office of Inspector General
Office of Labor Racketeering and
Fraud Investigations
2300 Main Street, Suite 1040
Kansas City, MO 64108



July 18, 2008

MEMORANDUM FOR: Tom Farrell
Assistant Inspector General
OLRFI

THROUGH: James Vanderberg
SAC
Chicago Region

FROM: Michael Barcus
ASAC
Kansas City Resident Office

SUBJECT: Case Summary
Operation Cedar Valley Junction (Agriprocessors)
OIG Case No. 53-3963-0006-PCJ

The U.S. Attorney's Office, Northern District of Iowa, requested the assistance of OLRFI in the investigation of Agriprocessors, Postville, Iowa. An official investigation was opened on May 5, 2008. From the outset it was made clear by the U.S. Attorney's Office that this was a highly sensitive investigation and details about ICE's planned enforcement operation should not be disclosed to anyone not having a need to know. The allegations against Agriprocessors involved the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking and worker exploitation issues. For many years, the plant has been the center of controversies for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, State of Iowa OSHA records show twenty violations at Agriprocessors; seven serious violations.

In 2001, EBSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

The U.S. Attorney's Office was particularly interested in OLRFI contacting a source who (b) (7)(C), (b) (7)(D). It was believed that the source had information that could be helpful in establishing probable cause for a search warrant of Agriprocessors. The U.S. Attorney's Office had

requested that OLRFI contact the source rather than an ICE agent out of concern that if ICE contacted the source it could compromise ICE's enforcement operation.

On May 5, [REDACTED]

On May 6, [REDACTED] contacted the source via telephone. The source did not want to talk over the telephone at that time and agreed to call [REDACTED] later. In the days leading up to the raid there was considerable media attention and speculation that ICE was planning a large worksite enforcement action. As the source had not called [REDACTED] the U.S. Attorney's Office advised [REDACTED] not to re-contact the source.

Also on May 5, information was provided to OLRFI HQ advising of the case opening and the expected execution of a search warrant and criminal arrest warrants on May 12. Information provided to OLRFI HQ in the days leading up to the operation were transmitted primarily via e-mail. Appropriate guidance defining OLRFI's role in the operation was provided by OLRFI HQ prior to May 12.

On May 6, SAC Vanderberg made a written request to [REDACTED] on Agriprocessors. During the week prior to the raid, information was obtained and reviewed by OLRFI including [REDACTED]

[REDACTED]

It was determined through these checks that Agriprocessors had requested a number of H-1B workers.

Six OLRFI agents and I participate in operational briefings held on Friday, May 9 and Saturday, May 10 in Waterloo, Iowa. OLRFI agents were assigned to the team responsible for executing the search warrant at Agriprocessors offices. Again, it was stressed during operational meetings that this was a highly sensitive investigation. Specifically, there was to be no mention of "Agriprocessors" by name during the briefings or at any other time.

On May 12, OLRFI agents assisted with the execution of the search warrant at Agriprocessors and attempted to identify and interview H-1B workers. In addition to interviews of workers at Agriprocessors, the U.S. Attorney's Office asked OLRFI to interview minors at the processing center in Waterloo that were willing to speak with agents.

At this time, OLRFI has not made any statistical claims relating to the arrest of undocumented workers. [REDACTED] is coordinating with ICE to obtain documents from the search warrant relative to the H-1B workers employed at Agriprocessors in order to determine whether any false statements or misrepresentations were made to DOL.

U.S. Department of Labor

Office of Inspector General
Office of Labor Racketeering and
Fraud Investigations
230 S Dearborn St, Room 756
Chicago, IL 60604



November 2, 2008

MEMORANDUM FOR: THOMAS FARRELL
Assistant Inspector General

FROM: JAMES VANDERBERG
Special Agent-in-Charge
Chicago Region

SUBJECT: Case Summary
Operation Cedar Valley Junction (Agriprocessors)
OIG Case No. 53-3963-0006-PCJ

Background

The U.S. Attorney's Office, Northern District of Iowa, requested the assistance of OLRFI in the investigation of Agriprocessors, Postville, Iowa. An official investigation was opened on May 5, 2008. From the outset it was made clear by the U.S. Attorney's Office that this was a highly sensitive investigation and details about ICE's planned enforcement operation should not be disclosed to anyone not having a need to know.

The allegations against Agriprocessors involved the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking and worker exploitation issues. For many years, the plant has been the center of controversies for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, State of Iowa OSHA records show twenty violations at Agriprocessors; seven serious violations.

In 2001, EBSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

On May 5, information was provided to OLRFI HQ advising of the case opening and the expected execution of a search warrant and criminal arrest warrants on May 12. From May 5, 2008, through the days leading to the search, HQ OLRFI and the Chicago Region discussed areas of OIG investigation. These areas included possible pension and health care issues, visa fraud, and circumvention issues.

Pursuant to the request of the U.S. Attorney's Office, on May 5, 2008, (b) (7)(C) contacted (b) (7)(C), (b) (7)(D) to obtain the contact information of a potential source.

On May 6, 2008, SAC Vanderberg made a written request to (b) (7)(C) (b) (7)(D) During the week prior to the raid, information was obtained and reviewed by OLRFI (b) (7)(E) It was determined through these checks that Agriprocessors had requested a number of H-1B workers and Permanent Employment applications.

Six OLRFI agents and ASAC Barcus participate in operational briefings held on Friday, May 9, 2008, and Saturday, May 10, 2008, in Waterloo, Iowa. OLRFI agents were assigned to the team responsible for executing the search warrant at Agriprocessors offices. Again, it was stressed during operational meetings that this was a highly sensitive investigation. Specifically, there was to be no mention of "Agriprocessors" by name during the briefings or at any other time.

On May 12, 2008, OLRFI agents assisted with the execution of the search warrant at Agriprocessors and attempted to identify and interview H-1B workers. In addition to interviews of workers at Agriprocessors, the U.S. Attorney's Office asked OLRFI to interview minors at the processing center in Waterloo that were willing to speak with agents.

Investigation to date since the search warrant

Thousands of documents were seized from the Agriprocessors administrative offices by Immigration and Customs Enforcement agents during the search. During the course of the search warrant OLRFI agents interviewed 9 employees who purported to be legal aliens who entered the US on various types of visas to work at Agriprocessors Inc. After the search warrant OLRFI agents interviewed 4 in custody illegal aliens (minors). All of the information that was collected by OLRFI was provided to the U.S. Attorney's Office. It is our understanding that the U.S Attorney's Office and the Wage and Hour Division had a meeting shortly after the warrant to discuss additional issues. OLRFI was not present at this meeting.

During the timeframe of the search warrant, we were able to ascertain that there were no pension or health care issues which needed to be investigated further. The ERISA covered pension plan was terminated several years earlier and there appeared to be no issues concerning the health plan which needed additional investigation.

OLRFI's investigative plan was to review employment and payroll data relative to the employment of the aliens who had visas to determine if Agriprocessors complied with visa regulations concerning these employees. Additional interviews were to be conducted as necessary upon completion of the data analysis.

OLRFI has yet to complete the evidence (document) analysis. The seized documents were to be immediately electronically scanned into a searchable digital format by ICE

employees (in Waterloo, IA). This process was started but the volume of documents seized turned out to be considerably greater than anticipated. So ICE transported all of the documents to ICE's Washington DC "Doc-Ex" (sp) facility to be scanned in there (presumably where the machinery was better and there were better trained/equipped personnel to accomplish the task).

In June 2008, ██████████ contacted ICE and asked if he could come to Iowa and review evidence. ██████████ was told that the evidence scanning was not complete and that the evidence could not be brought back to Iowa at that time due to flooding in Cedar Rapids (natural disaster). In early July, ██████████ again requested to go to Iowa and review evidence and was told that the flooding situation was still not resolved and that Doc-Ex had ran out of funding. Therefore the scanning was not complete. ██████████ checked again in late July and was told that it was still not complete and that ICE HQ was experiencing server problems.

On August 19, 2008, ██████████ was told by ICE that the evidence scanning was complete and the documents were physically located back in Iowa. ██████████ again asked to review the records in Iowa. He was told that the US Attorney's office was still working out of temporary space (a mobile trailer) due to the floods and there was no workspace for him utilize for reviewing the records. On August 20, 2008, ██████████ asked for ICE to make him a digital copy (DVDs) of the scanned evidence so he could begin analysis. ICE stated that the US Attorney's office would not allow the evidence to be copied. ICE stated that he would be notified when the office situation allowed him to come up and review evidence.

On September 11, 2008, ICE emailed ██████████ digital copies of seized records (14 records) that matched the search terms (names) of the alien workers in which OLRFI has an interest. OLRFI is currently in the process of examining those files and preparing informational folders on each worker. OLRFI plans to review payroll data (which OLRFI does not yet have access to) for each employee and ██████████

On September 9, 2008, two Human Resource employees from Agriprocessors, Inc. were charged by criminal complaint and arrested in the Northern District of Iowa. Laura Althouse was charged with violating 8 USC § 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC § 1546 (Aiding and Abetting in Document Fraud) and 18 USC § 1028A (Aiding and Abetting Aggravated Identity Theft). Karina Freund was charged with violating 8 USC § 1324 (Aiding and Abetting the Harboring of Undocumented Aliens). As our interviews from the search warrants directly involved this issue, we claimed statistical accomplishments for these arrests. We have not claimed any additional indictments or enforcement actions.

Recent contacts concerning WHD

On September 29, 2008, Mindy Schoeb, attorney for the DOL/SOL in Kansas City, called [REDACTED] and asked whether he could assist her in getting some of the detainees from the Agriprocessors raid paroled after their release from the Bureau of Prison (BOP) in Florida so that they could be deposed. Schoeb apparently had been in contact with ICE and was told to contact [REDACTED]. [REDACTED] spoke with the ICE case agent and was informed that the agency making the request for parole would be responsible for the alien. The other issue was that it was questionable whether parole can be requested for an administrative case. [REDACTED] requested that the ICE case agent forward the parole request paperwork to [REDACTED]. Late afternoon on Monday, ASAC Barcus also spoke with [REDACTED] and she seemed satisfied with the OIG's efforts in assisting her.

On October 2, 2008, ASAC Barcus made an inquiry with [REDACTED] with ICE [REDACTED] to find out more about the parole process and whether it was possible for a non-law enforcement agency to request parole. [REDACTED] did not know if it was possible. She advised she had contacted her HQ for an answer and they were researching the matter. [REDACTED] suggested that it might be possible for Wage & Hour to work something out with the Detention & Removal Branch to depose the aliens after their release from BOP. [REDACTED] advised that she would be willing to assist in that effort, but would need the names of the aliens that Wage & Hour wanted to depose. ASAC Barcus told [REDACTED] that he would provide [REDACTED] with her contact information since [REDACTED] had all the particulars.

ASAC Barcus then called [REDACTED] and spoke with her about his conversation with [REDACTED]. [REDACTED] advised that the telephone hearing on the law suit file by DOL was held today and did not go well. The Judge was not happy that DOL had filed their suit so late. The request to depose the aliens was apparently denied. [REDACTED] was appreciative of the OIG's efforts to assist her. [REDACTED] mentioned that she didn't think that the depositions will be crucial to Wage & Hour's case, but would be nice to have. ASAC Barcus later e-mailed [REDACTED] the contact information for [REDACTED].

On July 22, 2008, I spoke with First Assistant United States Attorney Richard Murphy, USAO, Northern District of Iowa, regarding the request from Congressman Braley's office for specific information about OIG's prior knowledge of and involvement in the raid at Agriprocessors on May 12 and what information OIG should put in the response. Wage and Hour Division's (WHD) knowledge of the investigation of Agriprocessors was also discussed.

AUSA Murphy advised that WHD knew that something was going to happen at Agriprocessors. WHD was not provided specific information and details about when and where something was going to happen, but WHD Investigator [REDACTED] had provided information about Agriprocessors to the USAO prior to the raid. AUSA Murphy believes that although WHD had an inkling that something was going to happen they did not want to know specifics.

On April 8, 2008, a press conference was held to announce the formation of a Human Trafficking Task Force which included ICE, FBI and WHD. WHD Investigator [REDACTED] was present. At the meeting participating agencies were advised that the USAO was interested in "Postville." Agriprocessors was not mentioned by name. However, after the meeting [REDACTED] advised that WHD had an investigation on Agriprocessors and provided information about Agriprocessors. [REDACTED]

[REDACTED] Prior to the May 12th raid, [REDACTED] had also informed the USAO about a meeting with the Governor's Office and State to discuss Agriprocessors. WHD had been invited to participate, but did not attend.

Last Friday, AUSA Murphy had a conference call with DOJ's Legislative Affairs Office and [REDACTED] DOL, Congressional and Intergovernmental Affairs, to discuss inaccuracies in the July 3, 2008, DOL letter to Congressman Braley. AUSA Murphy characterized the letter as being somewhat over the top and intended to put someone in a trick bag. According to AUSA Murphy, there is no doubt that WHD knew that something was imminent at Agriprocessors. WHD Investigator [REDACTED] had provided information to the USAO regarding Agriprocessors prior to the raid. The letter states that the WHD intervened to make sure the workers received their last paychecks. According to AUSA Murphy, AUSA Kandi Wilcox was told by WHD Investigator [REDACTED] last Friday, July 18, that WHD deferred to the state Department of Labor to make sure that the workers received their paychecks. AUSA Murphy thought that WHD had been notified shortly after the raid began on May 12, rather than learning about the raid from news reports. He will have to review his notes to verify that however. The letter also indicates that the enforcement action changed the complexion of WHD's investigation. According to what [REDACTED] told AUSA Wilcox, the raid did not interfere with WHD's investigation, but enhanced it.

Regarding the OIG response to Congressman Braley's office, AUSA Murphy advised that [REDACTED]

[REDACTED] AUSA Murphy would also like to be copied on any response provided to Congressman Braley's office by the OIG.

AUSA Murphy's e-mail address is Rich.Murphy@usdoj.gov

Agriprocessors Case Opening Chronology

In late April 2008, Richard Murphy, 1st Assistant AUSA for Northern District of Iowa, contacts ASAC Barcus after getting his name from an AUSA in the Western District of Missouri. The AUSA in the WDMO is aware that DOL/OIG is a member of the Human Trafficking Task Force in the WDMO. The conversation between Murphy and Barcus is a general conversation about a case involving an employer with a large number of undocumented workers and a prior history of labor violations. The name of the business and specific details about the case is not provided by Murphy. Murphy questions Barcus as to DOL/OIG's jurisdiction and asks if DOL/OIG would be interested in participating. Murphy explains that he is looking for agencies with relevant interests to get involved. Barcus explains that he would have to discuss matter with SAC/Agency and would get back to Murphy.

On May 1, 2008, Barcus contacts Murphy to get some additional information. Murphy advises that the case involves a large employer in NE Iowa. Allegations involving the employer include: ID theft, harboring, workers required to give sexual favors, workers being threaten, poor working condition, juveniles employed, cash paid to workers, law suit filed against employer for not pay OT and employer not paying payroll taxes. Murphy advised that 700 arrest warrants are to be issued and a search warrant was anticipated.

Barcus discusses Murphy's request for DOL/OIG involvement with SAC Vanderberg. A decision is made that DOL/OIG will open an investigation. On May 2, Barcus contacts Murphy and informs him that DOL/OIG will participate in the case, stressing that DOL/OIG does not do administrative ICE-type raids and that DOL/OIG's target would be the employer with regard to criminal labor violations within DOL/OIG's authority. Soon after, Barcus speaks via conference call to AUSAs Kandi Wilcox and Pete [LNU], Northern District of Iowa. Both AUSAs are working with Murphy.

Barcus is told by Wilcox that (b) (7)(C), (b) (7)(D) [REDACTED]
[REDACTED]
[REDACTED] Wilcox requests that DOL/OIG contact [REDACTED] to interview the Source and obtain information that could provide additional PC for the search warrant. Barcus is provided with the [REDACTED] contact information, contact information for the source and contact information for

the ICE case agent. Wilcox indicates that she did not want ICE to contact Source because she wanted to keep a low profile. Having ICE conduct the interview might make the Source suspicious.

May 5, 2008, a case is opened and assigned to (b) (7)(C) reached the Source by telephone. The Source was not able to talk at that time. later tried to contact the Source and left a message, but the Source did not return his call. informs Wilcox that the Source has not returned his call. Wilcox instructs to refrain from attempting to interview Source. continues developing other information in support of DOL/OIG's interests concerning H-1B and Perm workers and Agriprocessors' past failure to make contributions to employee health and benefit plans. No DOL/OIG information is used as the PC for SW.

PF
CASE TABLE OF CONTENTS

SERIAL #	DESCRIPTION	DOCUMENT DATE
56	CHR Report [redacted] Blain	
57	Criminal Report [redacted]	10/29/08
58	News Article Althouse Plea	10/29/08
59	MTF IOWA INTERVIEWS	10/29/08
60	MTF Check Interview	11/20/08
61	OIG 103 [redacted]	11/20/08
62	OIG 103 [redacted] Sisco	11/14/08
63	OIG 103 [redacted]	11/16/08
64	OIG 103 [redacted]	11/16/08
65	OIG 103 [redacted]	11/29/08
66	OIG 103 [redacted]	11/20/08
67	COPY of NEWS Article - Company indictment	11/10/08
68	COPY of Evidence Custody Sheet - China Transfer to GS Folder	11/27/08 11/25/08

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CASE TABLE OF CONTENTS

SERIAL #	DESCRIPTION	DOCUMENT DATE
MISS 29	OIG 103 [REDACTED]	
MISS 30	MTF - Case Activity	5/12/08
MISS 31	COPY OF IOWA [REDACTED] CASE FILE/MTF 31	5/20/08
MISS 32	NEW YORK TIMES NEWS [REDACTED]	5/6/08
MISS 33	OIG 103 [REDACTED]	5/20/08
MISS 34	MTF - Case Activity	5/14/08
MISS 35	NEWS ARTICLE ZWIRE.COM	6/24/08
MISS 36	NEWS ARTICLE KANSAS CITY STAR	6/5/08
MISS 37	EMAIL NEWS STORY RE: AGRICULTURAL PROCESSORS	7/14/08
MISS 38	EMAIL NEWS STORY RE: AGRICULTURAL PROCESSORS	7/25/08
MISS 39	EMAIL NEWS STORY RE: AGRICULTURAL PROCESSORS	7/14/08
MISS 40	EMAIL NEWS STORY RE: AGRICULTURAL PROCESSORS	7/25/08
MISS 41	EMAIL NEWS STORY RE: AGRICULTURAL PROCESSORS	7/28/08
MISS 42	NEWS STORY RE: AGRICULTURAL PROCESSORS	7/30/08
MISS 43	CONGRESSIONAL HEARING REPORT RE: AGRICULTURAL PROCESSORS	8/18/08
	File Review - MSP	8/18/08
MISS 44	COMPLAINT PACKET [REDACTED]	9/9/08
MISS 45	COMPLAINT PACKET [REDACTED]	9/12/08
MISS 46	CAR REPORT	9/12/08
MISS 47	CRIMINAL RESULTS [REDACTED]	9/12/08
MISS 48	CRIMINAL RESULTS [REDACTED]	9/12/08
MISS 49	IMIS CASE FILE DUMP	9/12/08
MISS 50	IOWA WORKFORCE DEVELOPMENT H2B APPLICATION	9/23/08
MISS 51	NEWS ARTICLE	10/2/08
MISS 52	USCIS H2B LETTER FROM AGRICULTURAL PROCESSORS	10/2/08
MISS 53	NEWS ARTICLE RE: LABOR DEPOSITIONS	10/2/08
MISS 54	NEWS ARTICLE RE: JUDGES DEPO DECISION	10/2/08
MISS 55	NEWS ARTICLE RE: AIRHOUSE PLOT	10/24/08

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CASE TABLE OF CONTENTS

SERIAL #	DESCRIPTION	DOCUMENT DATE
1	COPY of OSHA Allegation	
2	COPY of AaviProcessors Inc letter to employees	5/5/08
3	COPY of email regarding OSHA inspector	5/5/08
4	COPY subpoena to school District	5/5/08
5	Picture of school bus in Westville, IA	5/5/08
6	COPY of List of minor children at AaviProcessors	5/5/08
7	COPY of 016 103 (b)(7)(C)	5/5/08
8	DL-101 Case Production	5/5/08
9	COPY of FBI Letter	5/5/08
10	COPY of 016 103 (b)(7)(C)	5/5/08
11	File Request memo FROM SAC WANDERBERG TO Wanzelhour	5/6/08
12	CAR REPORT SEARCH WARRANT	5/6/08
13	NEWS Article re: Search Warrant	5/15/08
14	COPY of NLRB CASE Brief on AaviProcessors	5/15/08
15	COPY of ICE Affidavit for search Warrant	5/15/08
16	COPY of ICE Affidavit for search Warrant	5/15/08
17	COPY of NEWS Article re: AaviProcessors	5/15/08
18	016 103 (b)(7)(C)	5/12/08
19	016 103 (b)(7)(C)	5/12/08
20	016 103 (b)(7)(C)	5/12/08
21	016 103 (b)(7)(C)	5/12/08
22	016 103 (b)(7)(C)	5/12/08
23	016 103 (b)(7)(C)	5/13/08
24	016 103 (b)(7)(C)	5/15/08
25	016 103 (b)(7)(C)	5/12/08
26	016 103 (b)(7)(C)	5/12/08
27	016 103 (b)(7)(C)	5/12/08
28	016 103 (b)(7)(C)	5/12/08

Evidence Custody

U.S. Department of Labor
Office of Labor Racketeering
and Fraud Investigations



1. Case Title Cedar Valley Junction	2. Case Number 55-3963-0006-PCJ	3. Date November 20, 2008	4. Book Page 1-14
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5. Office Location (Complete Address)
U.S. DOL/OIG-OLRF
1222 Spruce St., Rm. 2.102H
St. Louis, MO 63103

6. Description of Article
H1B visa application file, H1B visa renewal application file, permanent visa application, employment contract, and approximately 158 payroll stubs received on November 20, 2008, from (b) (7)

7a. Received From Shefia Chiu	7b. Taken From (Location)	7c. Found at
8a. Received by (Print or Type) S. (b) (7)(C)	8b. Signature (b) (7)(C)	9. Witness (Signature) <i>[Signature]</i>

10a. Date	10b. Chain of Custody	10c. Purpose of Custody Chain
11/24/08	Received by (Signature) (b) (7)(C)	Turned over to case agent
11/25/08	Received by (Signature) (b) (7)(C)	TURNED IN TO EVIDENCE LOCKER
	Received by (Signature)	
	Print Name and Title	

Continue on Page 2

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10a. Date	10b. Chain of Custody	10c. Purpose of Custody Chain
	Received by (Signature)	
	Print Name and Title	
	Received by (Signature)	
	Print Name and Title	
	Received by (Signature)	
	Print Name and Title	

11. Final Disposal Authority Item(s) described in #6 is (are) no longer required as evidence and may be disposed of in the following manner:

- Release to owner or other
 Destroy (See below)
 Other (Specify)

Name:

Name of Authorizing Official

Signature

Date

12. Destruction

Name of Authorizing Official

Signature

Date

Agriprocessors and management criminally indicted[Print](#)

Saturday, 22 November 2008 00:10

Charges include conspiracy, harboring illegal aliens, aggravated identity theft, document fraud and bank fraud

CEDAR RAPIDS, Iowa - Agriprocessors Inc., its former CEO, three company managers and a company human resources employee were all charged Friday with federal immigration crimes in a 12-count indictment unsealed in U.S. District Court. The charges were announced by U.S. Attorney Matt M. Dummermuth, Northern District of Iowa, and resulted from an investigation by U.S. Immigration and Customs Enforcement (ICE).

The indictment charges Agriprocessors Inc., a Postville, Iowa, meat processing company, and Sholom Rubashkin, 49, of Postville, with conspiracy to harbor illegal aliens for profit, harboring illegal aliens for profit, conspiring to commit document fraud, aiding and abetting document fraud, aiding and abetting aggravated identity theft, and bank fraud.

Agriprocessors operations manager Brent Beebe, 51, of Postville, is charged with conspiring to harbor illegal aliens for profit, harboring illegal aliens for profit, conspiring to commit document fraud, aiding and abetting document fraud, and aiding and abetting aggravated identity theft. Beebe was arrested at noon on Friday at the Agriprocessors plant by ICE agents and U.S. Marshals. He appeared for arraignment at 3:30 p.m. the same day in federal court in Cedar Rapids.

Agriprocessors poultry managers Hosam Amara, 44, last known to live in Postville, and Zeev Levi, also last known to live in Postville, are charged with conspiring to harbor illegal aliens for profit, harboring illegal aliens for profit, conspiring to commit document fraud, and aiding and abetting document fraud.

Amara and Levi are fugitives, and ICE is seeking the public's assistance in locating them. Anyone with information as to their whereabouts is urged to call ICE at 1-866-347-2423. Photos of Amara and Levi are available at: [Here](http://www.usdoj.gov/usao/ian/press/Nov_08/11_21_08_CVJ_photos.html) (www.usdoj.gov/usao/ian/press/Nov_08/11_21_08_CVJ_photos.html).

Agriprocessors human resources employee Karina Pilar Freund, 29, of Fayette, is charged with conspiring to harbor illegal aliens for profit, and harboring illegal aliens for profit. The harboring charge is restated from a prior indictment; the harboring conspiracy charge is new.

The indictment unsealed in court Friday alleges that, beginning about late April 2008, Amara and Levi told a poultry supervisor that several employees were supposed to be terminated because they were working under bad documents. Amara and Levi later allegedly identified six of those employees who would be allowed to keep their employment at Agriprocessors if they got new documents. The poultry supervisor allegedly obtained new fake documents from the employees and gave them to Levi, but a problem was identified with the documents. The employees were allegedly allowed to continue working using their old documents.

The indictment also alleges that the week before a May 12 worksite enforcement operation conducted by ICE at Agriprocessors, Sholom Rubashkin - who at the time was CEO of Agriprocessors - loaned \$4,500 in \$100 bills to employees known to have bad identity documents. Beebe allegedly gave the money to a beef supervisor who later distributed money to illegal alien employees to purchase new fake U.S. permanent resident cards ("green cards") in different names. The indictment alleges that a foreman arranged the purchase of the documents, and Rubashkin allegedly asked human resource employees to work Sunday afternoon, May 11, to complete new application paperwork for several people. Beebe was allegedly present that afternoon and assisted with the paperwork.

According to a previously filed complaint, about 96 fake green cards and employment applications were seized from the Agriprocessors human resources offices the following day, May 12, when ICE agents administratively arrested 389 illegal alien workers. The complaint alleges that about 90 of the fake green cards bore alien registration numbers that were assigned to other people.

The indictment also alleges that on Feb. 29, Rubashkin, on behalf of Agriprocessors, made a false certification to a lending bank that Agriprocessors was in compliance with the law, despite knowing that the company was harboring hundreds of illegal workers. The indictment also alleges that in September 2008, Rubashkin diverted customer payments that were part of the bank's collateral for a \$35 million loan. To conceal the diversion of funds, Rubashkin allegedly caused Agriprocessors' books to inaccurately reflect that no such payments had been received.

Rubashkin and Freund previously appeared in federal court. Freund was released after being affixed with an electronic monitoring device. Thursday, U.S. Magistrate Judge Jon S. Scoies ordered Rubashkin detained without bail until trial.

Arraignments for Agriprocessors Inc., Rubashkin, and Freund are scheduled for Nov. 26 at 10 a.m. Rubashkin's and Freund's trial had previously been set for Jan. 20 in U.S. District Court in Cedar Rapids.

Agriprocessors faces a possible penalty of a fine of the greater of \$500,000 or twice the financial gain for each of the conspiracy, harboring, document fraud, and identity theft charges. On each of the bank fraud charges, it faces a fine of the greater of \$1 million or twice the loss caused.

Rubashkin faces a possible maximum sentence of 30 years in prison and a fine of the greater of \$1 million or twice the loss caused on each of the bank fraud charges. He faces a possible maximum penalty of 10 years in prison and a \$250,000 fine on each charge of conspiring to harbor illegal aliens, harboring illegal aliens, aiding and abetting document fraud. He faces five years in prison and a \$250,000 fine for conspiring to commit document fraud; and a mandatory consecutive two years in prison and a \$250,000 fine for each charge of aiding and abetting aggravated identity theft.

Beebe faces a possible penalty of 10 years in prison and a \$250,000 fine for each charge of conspiring to harbor illegal aliens, harboring illegal aliens, and aiding and abetting document fraud. He faces five years in prison and a \$250,000 fine for conspiring to commit document fraud; and a mandatory consecutive two years in prison and a \$250,000 fine for each count of aiding and abetting aggravated identity theft.

Amara faces a possible maximum penalty of 10 years in prison and a \$250,000 fine for each charge of conspiring to harbor illegal aliens, harboring illegal aliens, and aiding and abetting document fraud. He faces five years in prison and a \$250,000 fine on the charge of conspiring to commit document fraud.

Levi faces a possible maximum penalty of 10 years in prison and a \$250,000 fine for each charge of conspiring to harbor illegal aliens, harboring illegal aliens, and aiding and abetting document fraud. He faces five years in prison and a \$250,000 fine on the charge of conspiring to commit document fraud.

Freund faces a possible maximum penalty of 10 years in prison and a \$250,000 fine for each charge of conspiring to harbor illegal aliens and harboring illegal aliens.

As with any criminal case, a charge is merely an accusation; a defendant is presumed innocent until and unless proven guilty.

The investigation began in October 2007 and has continued since the May 12 execution of federal search warrants at Agriprocessors. The investigation is ongoing.

Assistant U.S. Attorneys Peter Deegan, C.J. Williams, and Matthew Cole, Northern District of Iowa, are prosecuting this case. The investigation has been led by U.S. Immigration and Customs Enforcement with assistance from the FBI. Assistance has also been provided by the U.S. Marshals Service, U.S. Postal Inspections Service, Iowa Department of Public Safety, Iowa Department of Transportation, Internal Revenue Service's Criminal Investigations, U.S. Department of

Labor, U.S. Public Health Service, U.S. Department of Agriculture, U.S. Environmental Protection Agency, Iowa Department of Natural Resources, U.S. Drug Enforcement Administration, Waterloo Police Department, and Postville Police Department.

U.S. Immigration and Customs Enforcement

< PREV

NEXT >

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 11/19/08	At: Waterloo, Iowa	File: 55-3963-0006-PC
By: SA (b) (7)(C)	Date Prepared: 11/24/08	

(b) (7)(C)

On November 19, 2008 at approximately 10:00am [redacted] was contacted telephonically by USDOL, OIG Special Agent [redacted] OIG agents [redacted] and [redacted] knocked at the front entry of [redacted] address and received no answer (the lower floor of the address was an unopened store front).

A female answered the telephone and identified herself as [redacted] However, [redacted] repeatedly stated "I do not speak English" in response to any and all questions asked by [redacted] Agents were unable to meet face to face with [redacted]



Investigation on: 11/20/08	At: Cedar Rapids, Iowa	File: 55-3963-0006-PC
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By: SA (b) (7)(C)

Date Prepared: 11/21/08

(b) (7)(C)

On November 20, 2008 at approximately 10:00am USDOL, OIG, OLRFI Special Agents [redacted] and [redacted] interviewed [redacted] at the US Attorney's Office, Northern District of Iowa in Cedar Rapids, Iowa. [redacted] was interviewed pursuant to a proffer agreement with Assistant United States Attorney Pete Deegan. Also present was Attorney [redacted] representing [redacted] was advised of the identity of the agents and the purpose of the interview. She provided the following information voluntarily.

[redacted] began working for AgriProcessors Inc (AP) on December 9, 1996 in the laundry department. [redacted] duties included signing out frocks (aprons) and gloves to slaughterhouse employees. [redacted] started out making \$5.75 per hour. [redacted] worked in the laundry department until 2000 and had worked her way up to \$7.50 per hour by 2000. From 1998 to 2000 [redacted] duties also included purchasing for the laundry department.

In 2000, [redacted] moved to the payroll department. Her duties in payroll include entering employee work time into the computer, filing and completing paperwork for new hires. In September 2008 [redacted] became a salaried employee making \$1100 per week.

[redacted] is familiar with AgriProcessors Health Care Plan. Part of her responsibilities when completing new hire paperwork includes explaining the plan to new employees. The health care plan was already in place when [redacted] began working for Agriprocessors. All Agriprocessors employees (from all company locations) are eligible to participate in the plan after completing 3 full months of employment. Best Value employees are also eligible to participate. The plan offers both individual and family plans. The family plan includes life insurance and dental coverage (no vision). Sisco is the Third Party Administrator (TPA) for the health care plan. The life insurance is \$25,000 per person for adults and \$2,000 per child. [redacted] does health care enrollments [redacted] handles health care claims.

The premiums for coverage recently went up. All employees pay \$69.23 for family and \$23.08 for single coverage. The old rates were \$49.82 for family and \$19.82 for single coverage. AgriProcessors employees in New York and Florida pay \$10 per week more. [redacted] believes that these rates were set up by [redacted], the Human Resources (HR) payroll manager.

Sisco premiums are withheld from participating employees via payroll deduction. Sisco sends AgriProcessors a premium bill each month. [REDACTED] gives [REDACTED] a list of participating employees each month. [REDACTED] usually leaves the list in [REDACTED] box. [REDACTED] verifies the list and then gives the list to [REDACTED] in accounts payable. Preuser cuts the check to Sisco, which then must be signed by two (2) managers. There are four (4) managers, [REDACTED] and [REDACTED].

The monthly premium check to Sisco for employee deductions usually totals about \$30,000 and includes employee deductions from all AgriProcessors locations (Iowa, Nebraska, Florida and New York). The October 2008 check either went out late or did not go out to Sisco. [REDACTED] came up and got the check and stopped it because money was short in the payroll account. [REDACTED] believes the monthly premium check comes out of the Luana Bank payroll account. [REDACTED] is not sure if both premiums and claims are paid from the same account. [REDACTED] assistant, [REDACTED] would know.

[REDACTED] believes AgriProcessors pays the payroll deduction premiums in advance. On the 1st of the month Sisco sends the list over for that month. [REDACTED] is responsible for physically mailing the check once it is signed. [REDACTED] tries to get the check mailed out by the 14th or 15th of the month. Sometimes the signatures are difficult to get and it may take until the 3rd week or rarely the 4th week of the month to get the check out. [REDACTED] does not believe there are any premiums owed other than the October premiums.

There have been a lot of employees complaining about unpaid claims lately. [REDACTED] heard that no claims have been paid since the plan renewed in August 2008. [REDACTED] told [REDACTED] in October that an arrangement had been made to start automatically sending \$25,000 to Sisco each month for claims because AgriProcessors is so far behind in claims payments. [REDACTED] is not sure where [REDACTED] got that information but [REDACTED] assumes that it came from [REDACTED].

[REDACTED] stated that she has never discussed the health care plan with [REDACTED] only [REDACTED]. On first Friday in November Sisco stopped administrating the plan. AgriProcessors stopped taking deductions from employees when Sisco quit. [REDACTED] is not sure if the final premium for deductions ever made it to Sisco. [REDACTED] has no idea if annual tax filings were ever submitted for the health care plan. [REDACTED] is not sure who at AgriProcessors is in charge of the health care plan. It could possibly be [REDACTED] or [REDACTED].

Since 2006 AgriProcessors' payroll has been done by a company called Galaxy (1-800-314-8223). Prior to 2006 the payroll was done by a company called Mass 90. [REDACTED] was trained on the Galaxy system by [REDACTED]. When [REDACTED] has problems with the Galaxy payroll systems she calls [REDACTED]. [REDACTED] can dial into AgriProcessors system remotely. Galaxy covers the Iowa and Florida payrolls. A company called BDB does the New York payroll. Florida just went out on their own for payroll last week.

At the Iowa AgriProcessors location the code for health care payroll deductions is code "05". A possible point of contact in the New York AgriProcessors office for health care issue is [REDACTED]. There is no current retirement or 410k plan at AgriProcessors. There was a plan but it closed about 7 years ago. [REDACTED] would know about the retirement plan since she has worked at AgriProcessors since they opened in Iowa in January 1989.

AgriProcessors has what is known as the "Hunt" payroll. The company originally set up a fictitious payroll account for "Hunt Enterprises" because AgriProcessors did not want to pay people who worked on the Sabbath from the company's payroll account. So all work done on the Sabbath was reported under the Hunt payroll. After illegal aliens began working at AgriProcessors Shalom Rubashkin and [REDACTED] had [REDACTED] look at all of the identification documents that were provided by the workers. Any workers who had suspicious documents went on the Hunt payroll until they got good identification documents.

[REDACTED] is also responsible for sending in garnishment payments from payroll accounts. [REDACTED] is concerned about her legal liability because she is 4 weeks behind in sending the garnishment checks because [REDACTED] and Rubashkin will not sign the checks. [REDACTED] and [REDACTED] asked [REDACTED] about this and he said there is no money.

Jacobsen Staffing provided workers to AgriProcessors after the raid of May 2008. AgriProcessors sent wage payments directly to Jacobsen, who was responsible for paying the employees. Jacobsen withheld rent payments from the employees. Sometimes the rent payments equaled the employee's whole check. Jacobsen said there is a law that allows for rent to be withheld even if it equals the whole paycheck. Jacobsen pulled out of AgriProcessors about 3 weeks ago because AgriProcessors was about 6 weeks behind in payments. Under the agreement with Jacobsen, any employee who worked for AgriProcessors for over 520 hours or 6 months could be hired away from Jacobsen and on with AgriProcessors.

Althouse prepared some experience letters or employment verification letters for employees who were applying for permanent work certifications. [REDACTED] used to prepare the employment verification letters. [REDACTED] stated that she can provide a list of the employees for which she [REDACTED] has prepared employment verification letters. Althouse believes that list will include [REDACTED] and [REDACTED].

[REDACTED] has previously done some of the job advertising for AgriProcessors. [REDACTED] has advertised for accountants but never for a budget analyst. [REDACTED] has also advertised for maintenance and laborers but never engineers or operations managers. [REDACTED] believes the advertising was effective because she was able to fill 2 accountant positions thru the advertising. There are currently 9 accountants working in the Iowa AgriProcessors office. One accountant was recently laid off.

[REDACTED] believe [REDACTED] probably determined [REDACTED] wages because [REDACTED] worked under [REDACTED] in accounts payable. [REDACTED] works with [REDACTED] believes [REDACTED] makes about \$10 per hour. [REDACTED] is not aware of [REDACTED] visa or immigration status. [REDACTED] stated that \$7.50 per hour is not an uncommon wage for a female working in her office. Most men in the office are salaried employees making \$575 to \$800 per week. The female's wages were all raised to \$10 per hour after the May 2008 raid. [REDACTED] and [REDACTED] because salaried employees about 2 months ago.



Investigation on: November 19, 2008 At: Cedar Rapids, IA File: 55-3963-0006-PC

By: SA (b) (7)(C)

Date Prepared: November 19, 2008

Person Interviewed:

(b) (7)(C)

SSN:

DOB:

Occupation:

Phone:

Date of Interview:

Place of Interview:

Interviewers:

On November 19, 2008, OLRFI (b) (7)(C) and (b) (7)(C) interviewed (b) (7)(C) at the United States Attorneys Office, Cedar Rapids, Iowa, regarding her knowledge of efforts made by her employer, Agriprocessors Inc., Postville, Iowa, to bring in workers using the U.S. Department of Labor H1B work visas.

(b) (7)(C) was interviewed in the presence of (b) (7)(C). Agents fully identified themselves prior to questioning.

(b) (7)(C) initially made entry into the United States (US) in April 2005 on an H1B visa sponsored by Agriprocessors Inc. (b) (7)(C) learned of the employment opportunity from (b) (7)(C) at the time. (b) (7)(C) aunt referred (b) (7)(C) to (b) (7)(C) a California based attorney, to complete the H1B application to obtain the work visa. (b) (7)(C) paid (b) (7)(C) approximately \$3,000.00 to \$4,000.00 to process the H1B visa application. The H1B visa application was approved for a period of three years. (b) (7)(C) was subsequently issued a work authorization card by the Department of Homeland Security (DHS).

In October 2008, (b) (7)(C) approximately \$4,500.00 to process an application for the renewal of her H1B work authorization card. The change in status was approved by DHS and a second work authorization card was issued with a revised expiration date of 8/28/2010.

(b) (7)(C) further paid (b) (7)(C) an additional \$4,500.00 to \$5,000.00 to process an application for a change of immigration status to permanent residency. (b) (7)(C) believed the status of that application to still be pending.

(b) (7)(C) has only been employed by Agriprocessors since she first made entry into the United States in April 2005.

(b) (7)(C) did not recall what wages were promised on her H1B application when she first applied for a job with Agriprocessors. (b) (7)(C) believed her wages to have been approximately \$7.25 per hour when she was first hired. (b) (7)(C) is currently being paid \$10.00 per hour.

(b) (7)(C)

believed the only deductions being made from her paycheck were for Social Security and Medicare.

Agriprocessors loaned \$1,500.00 to assist with paying her attorney fees associated with the H1B renewal application. Deductions were made from paycheck to repay the debt. Loans were frequently made to employees of Agriprocessors from the "pop" fund derived from the employee purchases of sodas, snacks, etc. The loans were approved by Shalom (LNU), Chief Executive Officer (CEO), Agriprocessors.

attained a majored in management and minored in accounting. finished her degree prior to entering the United States.

was employed by Agriprocessors in was the head of the duties included printing checks to vendors, processing checks for signatures, and stuffing envelopes. was not employed in the Human Resources Division.

Agriprocessors did offer all of its employees the option to participate in a company healthcare plan. declined the offer to participate based on the cost of \$20.00 per week or \$80.00 per month. felt that the cost was too expensive. was not aware of any employees being forced to participate in the healthcare program. had no further knowledge of the company healthcare plan.

stated that she did see checks printed to Cisco after being informed by agents the Cisco was the third party administrator for the company healthcare plan. did not see any invoices submitted by Cisco requesting payment for healthcare related services. received a "check request" for Cisco. The check would then be printed and sent to would submit the check for a signature.

identified as the head of the Accounting Division and as the head of the Human Resources Division for Agriprocessors.



Investigation on: 11/19/08	At: Waterloo, Iowa	File: 55-3963-0006-PC
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By: SA (b) (7)(C)

Date Prepared: 11/21/08

(b) (7)(C)

On November 19, 2008 at approximately 11:00 am USDOL, OIG, OLRFI Special Agents [redacted] and [redacted] went to 265 W. Williams Street, Apartment 8 to locate and interview Auroprocessors employee [redacted]. Apartment 8 is currently occupied by [redacted]. [redacted] was advised of the identity of the agents and the purpose of the interview. She provided the following information voluntarily.

[redacted] has been living in Apartment 8 of 265 W. Williams Street for several years. Stockman knows [redacted] stated that [redacted] left the United States several years ago but he used to live in Apartment 8 before he left. [redacted] does not know [redacted] current location.



Investigation on: 11/19/08

At: Waterloo, Iowa

File: 55-3963-0006-PC

By: SA (b) (7)(C)

Date Prepared: 11/21/08

(b) (7)(C)

On November 19, 2008 at approximately 11:35am USDOL, OIG, OLRFI Special Agents [redacted] and [redacted] interviewed [redacted] at her residence in Postville, Iowa. [redacted] was advised of the identity of the agents and the purpose of the interview. She provided the following information voluntarily.

On October 12, 1995, [redacted] came to United States using a visitor's visa. [redacted] does not know if it was a B1 or B2 visa. [redacted] came to Postville, Iowa because her aunt worked at Agriprocessors ("AP"). [redacted] aunt went back to Ukraine years ago.

Approximately two months after coming to the United States, [redacted] started working at AP. [redacted] talked to AP employee [redacted] in order to get employment at AP. [redacted] was paid approximately \$6.25 per hour when she started working at AP and over the years has received pay increases. [redacted] is currently a salaried AP employee and is paid approximately \$775.00 per week.

With respect to [redacted] permanent resident card, [redacted] started the legal paperwork between December 2000 and Spring 2001. AP Manager Don Hunt ("Hunt"), who is deceased, assisted AP employees applying for permanent resident cards through their employment. All AP employees applying for permanent residency needed a lawyer and were assisted by Hunt and AP employee [redacted]. [redacted] provided applicants' lawyers with employment verification information and paperwork. [redacted] did not pay AP for assisting her with her application. [redacted] does not know if [redacted] was aware that she [redacted] was working under a visitor's visa.

[redacted] had two cases related to her application for permanent residency. The first was through her employment with AP. [redacted] does not recall the name of the attorney handling the case. After two years, the case did not go anywhere and [redacted] applied for a green card through a lottery. [redacted] second attorney was [redacted] of Chicago. [redacted] received her green card and later the AP employees who applied through their employment with AP received their green cards.

[redacted] did not take a loan from AP to pay her lawyers' fees incurred while gaining permanent residency.

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 11/14/08	At: St. Louis, MO	File: 55-3963-0006-PC
By: SA (b) (7)(C)		Date Prepared: 11/14/08

(b) (7)(C)

On November 14, 2008 at approximately 2:30 pm USDOL, OIG Special Agent [redacted] contacted [redacted] telephonically. [redacted] was advised of the identity of the agent and the purpose of the interview. He provided the following information voluntarily.

[redacted] works for SisCo, the Third Party Administrator (TPA) which processes claims for the Agriprocessors, Inc. Health Care Plan. Agriprocessors' health care plan is self-funded. Employees who participate in the plan have premiums withheld from their pay by Agriprocessors, Inc. SisCo established an account from which all health care claims were paid. SisCo processed the claims and made the payments for Agriprocessors. Agriprocessors was responsible for funding this account. [redacted] stated that it was not uncommon for Agriprocessors to go for several weeks without contributing to the account.

[redacted] stated that Agriprocessors also employed the stop loss carrier (third party insurance) HM Insurance for catastrophic claims. So some money was contributed to the payment account by HM Insurance.

[redacted] stated that the annual renewal cycle for SisCo is August 1 of each year. [redacted] agreed to pull the payment account deposit history dating back to August 1, 2007 and to provide this data to OLRFI. [redacted] stated that he may be able to get the payment history prior to August 2007 but he would have to search the archives for it.

55-3963-0006-PCJ

November 20, 2008

SA (b) (7)(C)

MEMO TO FILE

On November 20, 2008, [REDACTED] Accounts Payable, Agriprocessors Inc., Postville, IA, provided OLRFI SA [REDACTED] and [REDACTED] with copies of:

1. Original and renewal H1B applications.
2. Application for permanent residency.
3. Pay stubs for the duration of time she has been employed at Agriprocessors Inc.

Case No. 55-3963-0006-PCJ

November 20, 2008

SA (b) (7)(C)

MEMO TO FILE

On November 19, 2008 USDOL OIG Special Agents [REDACTED] and [REDACTED] attempted to locate and interview 8 Agriprocessors employees.

1. [REDACTED] was no longer at her listed address. An unidentified male neighbor stated that [REDACTED] has moved to Omaha with her son.
2. [REDACTED] was no longer at his listed address. The residence appeared to be uninhabited.
3. [REDACTED] was contacted but repeatedly stated that she speaks no english.
4. [REDACTED] was no longer at his listed address. A neighbor stated that he moved out of the country years ago.
5. [REDACTED] address was visited on 11/19/08 but no one was at home. OLRPI agents returned on 11/20/08 and learned that the residence is now occupied by subject Shalom Rubashkin's son. No forwarding address for [REDACTED] was obtained.
6. [REDACTED] was interviewed by [REDACTED] and [REDACTED]
7. [REDACTED] was contacted telephonically and an interview was scheduled for 11/20/08. When contacted by OLRPI agents [REDACTED] and [REDACTED] on 11/20/08 [REDACTED] referred agents to his attorney.
8. [REDACTED] was interviewed by SA's [REDACTED] and [REDACTED] provided OLRPI agents with a copy of her H-1B visa application and check stubs from her employment with Agriprocessors.

9. * On November 20, 2008 OIGBI agents [REDACTED] and [REDACTED] interviewed [REDACTED] (with her attorney) pursuant to a proffer agreement with AUSA Pete Deegan.

* See OIG Form 103 for Report of Interview



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Agriprocessors employee pleads guilty to identity theft charges

GRANT SCHULTE - GSCHULTE@DMREG.COM • OCTOBER 29, 2008

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Cedar Rapids, Ia. – A human resources employee from Agriprocessors, Inc. pleaded guilty today to conspiracy and identity theft charges for helping illegal immigrants who worked at the plant.

Laura Althouse now faces between 2 and 12 years in federal prison, according to the agreement reached in U.S. District Court in Cedar Rapids.

A federal judge still must approve Althouse's exact sentence, which is subject to negotiation. But a possible range on the two-count conviction could send Althouse to prison for 51 to 57 months, lawyers said at the plea hearing.

Althouse pleaded guilty to conspiracy to harbor undocumented aliens for financial gain, and one count of aggravated identity theft.

"Guilty, sir," she said when asked for her plea.

The deal also requires the 38-year-old to cooperate with federal law enforcement agencies and the U.S. Department of Labor, said Assistant U.S. Attorney Peter Deegan.

Federal prosecutors and labor department agents have said they are still investigating Agriprocessors, which was the target in May of one of the largest single-site immigration raids in U.S. history. Immigration agents detained 389 illegal immigrant workers from the kosher meat-packing plant, including hundreds that were charged with identity theft and false documentation.

Althouse wept and spoke in whispers as U.S. Magistrate Jon S. Scoles detailed the plea agreement and possible penalties. Deegan submitted a 16-page letter detailing the plea agreement, which was placed under seal from the public.

Althouse acknowledged during the hearing that she knowingly possessed a phony resident alien card and helped illegal immigrants work at Agriprocessors. Aggravated identity theft requires a minimum two-year prison sentence.

The combined convictions also carry a possible \$500,000 fine, a \$200 court surcharge and four years of supervised release.

Althouse's attorney, Ward Rouse, declined to comment after the hearing.

Althouse remains free on bond until her sentencing.

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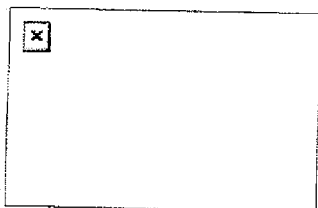


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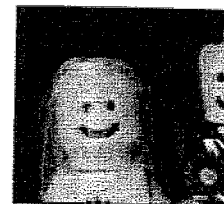
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ENTRY SHEET

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ

Title: Agriprocessors Inc

Defendant:

(Last)

(b) (7)(C)

(First)

Date Presented: 5/11/08

Presented To: F

District: N/A

Exception:

Sealed: YES

Date Declined:

Date Arrested: 9/9/08

Date Charged: 9/9/08

Dates Superseded:

Charges	Type	Disp	Defer
8 USC 1324	1	CV ✓	
18 USC 1546	1	DSV ✓	
18 USC 1028A	1	CV ✓	

Outcome Code: CV ✓

Outcome Date: 10/29/08 ✓

Docket#: 08-MJ-325 ✓

Sentenced/Pre-Trial Date:

*Continued
10-30-08
[Signature]*

REMARKS/COMMENTS:

Inc (Mos):

Prob (Mos):

Fines:

Comm. Srvc Hrs:

Forfeits:

Rest:

OTHER:

DEBARMENT (Yrs):

29USC504: (Y/N)

29USC1111: (Y/N)



Case Activity Report
 U.S. Department of Labor
 Office of Inspector General
 Office of Labor Racketeering And Fraud Investigations



Date of Event:	October 29, 2008	Region:	Chicago	Case No.:	55-3963-0006-PCJ
Location:	Postville, Iowa	Subject/Title:	Operation Cedar Valley Junction	Case Agent:	(b) (7)(C)
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input type="checkbox"/> Indictment <input checked="" type="checkbox"/> Conviction <input type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other: <u>Guilty Plea</u>					

DETAILED SUMMARY:

On October 29, 2008 **(b) (7)(C)** pleaded guilty to one count of 8 USC 1324 (Conspiring to Harbor Undocumented Aliens) and one count of 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). **(b) (7)(C)** agreed to cooperate with the government in this investigation. The plea agreement was filed under seal.

This is a joint investigation with DHS ICE and this case has received considerable media attention.

PREVIOUSLY REPORTED:

On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. **(b) (7)(C)** was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). **(b) (7)(C)** was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

See Attachment:	Press Clippings/Releases Plea Agreements/Judgments	Yes	Dissemination Restricted To:	Restricted - Sealed Plea
Submitted By:	SA (b) (7)(C)		Date:	10/29/08 DIG-15 (OLRFI 12/03)

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.



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POWERED BY

Agriprocessors employee will change plea to guilty

BY GRANT SCHULTE • GSCHULTE@DMREG.COM • OCTOBER 29, 2008

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A human resources employee at Agriprocessors Inc. will plead guilty today of playing a role in the hiring and harboring of illegal immigrants in Postville, according to an online court docket.

Laura Althouse is scheduled to change her not guilty plea at a U.S. District Court hearing in Cedar Rapids, the docket shows.

The 38-year-old was charged in September with aiding and abetting document fraud, aiding and abetting aggravated identity theft, and conspiracy to harbor undocumented aliens. She pleaded not guilty later that month.

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Details of the plea deal were unavailable. Lawyers for Althouse did not return phone calls late Tuesday. Bob Teig, a spokesman for the U.S. attorney's office, said he could not comment beyond the information in the public record.

Althouse also was one of five high-level Agriprocessors employees charged with 9,311 state child-labor violations. The charges came four months after federal agents conducted one of the largest single-site immigration raids in U.S. history at the kosher meat-processing plant and detained 389 illegal immigrant workers.

The federal charges against Althouse stem from an alleged attempt to hide the immigrants' false identities from federal agents.

Prosecutors allege that Althouse, of Postville, helped the illegal immigrant workers complete new applications with phony identities one day before the bust.

Althouse, who oversaw the company's payroll, allegedly knew that many of the employees were illegal and were reapplying

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The only other high-level Agriprocessors employee to face federal charges is Karina Freund, who worked as a Spanish translator in the human resources department. Freund, of Fayette, has pleaded not guilty.

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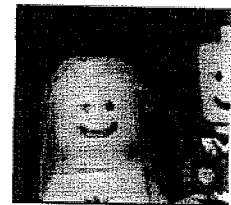
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[REDACTED]

From: Barcus, Michael - OIG
Sent: Thursday, October 02, 2008 6:40 PM
To: Vanderberg, James - OIG
Cc: [REDACTED]
Subject: Agriprocessors

Judge agrees Labor Department should depose former Agriprocessors employees

By LYNDA WADDINGTON 10/2/08 6:18 PM

Nine former Agriprocessors employees that were swept up during a massive May immigration raid at the plant and are now in a federal penitentiary will be interviewed by the U.S. Department of Labor prior to their deportation.

U.S. Magistrate Judge Jon Stuart Scoles acknowledged in his order authorizing the interviews that he was not requiring a future court to admit deposition testimony from the nine men.

"That is, in any further proceeding the Court may consider the circumstances surrounding the depositions, the substance of the depositions, and the other evidence to be presented, and then determine whether Agriprocessors, Inc. would be prejudiced by permitting the introduction of deposition testimony as substantive evidence," Scoles wrote in today's order.

The hearing by telephone on the motion to allow the Labor Department to interview the men began as scheduled this morning and, according to court documents, ended after 44 minutes. Both the federal agency and Agriprocessors were represented by two attorneys.

In his written order Scoles noted that the petition filed by the Labor Department was not verified and that no evidence was introduced at the time of hearing, something which did not draw the objection of the Agriprocessors legal team.

Attorneys for the federal government told Scoles that the Wage and Hour Division of the Department of Labor began an investigation into the practices of "donning and doffing" work gear at Agriprocessors in June. During the course of that investigation, 23 immigrants detained during the May raid were interviewed by investigators on July 9 and 10 while the men were being held in Leavenworth, Kansas.

The investigators believed these individuals would be held until their deportation date of Nov. 1. Nine of those interviewed, however, were moved from Kansas to a federal facility in Miami, Florida and scheduled for an Oct. 10 deportation date.

Scoles ordered that the depositions must take place on Oct. 7 and 8 at the correctional facility in Florida.

The Agriprocessors legal team argued that the charges related to "donning and doffing" were "not new claims," but had already been introduced and placed before the court in a case launched in March 2007. The particular case cited — *Salazar et al vs. Agriprocessors* — is a case in which the dismissal documents have been sealed by the court for confidentiality related to proprietary information.

The Labor Department has indicated the need for the depositions stem from the agency's current inability to bring a court action against the Postville meatpacking plant in relation to wage discrepancies.

10/3/2008

(b) (7)(C)

From: Barcus, Michael - OIG
Sent: Thursday, October 02, 2008 5:17 PM
To: Vanderberg, James - OIG; [REDACTED]
Subject: Agriprocessors

Updated October 02, 2008 11:59AM

Labor department argues for depositions of Agriprocessors workers

By Trish Mehaffey
The Gazette
trish.mehaffey@gazcomm.com

CEDAR RAPIDS — An attorney for the U.S. secretary of labor told a judge this morning that the department has to quickly depose nine former Agriprocessors workers before they are deported next week.

U.S. Secretary of Labor Elaine Chao is investigating the pay practices at the Postville kosher meatpacking plant, but no civil complaint has been filed because she needs the additional evidence from workers.

Melinda Schoeb, attorney for Chao, testified in the telephone hearing that the investigation by the Wage and Hour Division of the Department of Labor started in June after the May 12 immigration raid at the plant. Twenty-three interviews were conducted by the labor division at Leavenworth Prison in Kansas and various other prisons in Iowa where the immigrants were being held.

Schoeb said the nine were chosen to depose because they are all in custody at one prison, the Federal Correctional Institution in Miami, Fla. It was the easiest to arrange on the short notice, she said.

The labor department learned of the deportation date Sept. 23, Schoeb said.

Michael DeSantis, attorney for Agriprocessors, argued the department had had five months to do the depositions, which is more than enough time to investigate.

The other concern is that Rosh Hashannah started Sept. 29, which limited communications with Agriprocessors' owners, who are Hassidic Jews and don't work during the Jewish New Year, he said. DeSantis said he couldn't talk to his clients until this morning about this petition.

DeSantis told the court Yom Kippur starts Oct. 9, and there will be no business conducted by the Agriprocessors' owners after sundown Oct. 8.

U.S. Magistrate Jon Scoles said the 20-day notice the labor department is required to give for

10/3/2008

a hearing on the motion, which wasn't given, concerns him. Scoles also said he would require the depositions to be taken before the Jewish holiday.

Scoles said he would look at the law and rule this afternoon.

The petitioner filed Form I-129, Petition for a Nonimmigrant Worker, with the United States Citizenship and Immigration Services ("USCIS") to classify the alien beneficiaries to perform temporary nonagricultural labor or services under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act ("INA" or "Act")

Services are not temporary or a one-time need

The first issue to be discussed is whether the petitioner has established that its need for the beneficiary's services or labor is a temporary based upon a one-time occurrence.

INA 101(a)(15)(H)(ii)(b) defines a temporary nonagricultural worker as:

having a residence in a foreign country which he has no intention of abandoning, who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession

Title 8, Code of Federal Regulations ("8 C.F.R.") 214.2(h)(1)(ii)(D) states:

An H-2B classification applies to an alien who is coming temporarily to the United States to perform nonagricultural work of a temporary or seasonal nature, if unemployed persons capable of performing such service or labor cannot be found in this country. This classification does not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession. The temporary or permanent nature of the services or labor to be performed must be determined by the Service. This classification requires a temporary labor certification issued by the Secretary of Labor or the Governor of Guam, or a notice from one of these individuals that such a certification cannot be made, prior to the filing of a petition with the Service.

8 C.F.R. 214.2(h)(6)(vi) requires the petitioner to submit evidence of the following:

(A) Labor certification or notice. A temporary labor certification or a notice that certification cannot be made, issued by the Secretary of Labor or the Governor of Guam, as appropriate;

(B) Countervailing evidence. Evidence to rebut the Secretary of Labor's or the Governor of Guam's notice that certification cannot be made, if appropriate;

(C) Alien's qualifications. Documentation that the alien qualifies for the job

offer as specified in the application for labor certification, except in petitions where the labor certification application requires no education, training, experience, or special requirements of the beneficiary; and

(D) Statement of need. A statement describing in detail the temporary situation or conditions which make it necessary to bring the alien to the United States and whether the need is a one-time occurrence, seasonal, peakload, or intermittent. If the need is seasonal, peakload, or intermittent, the statement shall indicate whether the situation or conditions are expected to be recurrent.

Matter of Artee Corp., 18 I. & N. Dec. 336 (Comm. 1982), codified in the current regulations at 8 C.F.R. 214.2(h)(6)(ii), specifies that the test for determining whether an alien is coming "temporarily" to the United States to "perform temporary services or labor" is whether the need of the petitioner for the duties to be performed is temporary. It is in the nature of the need, not the nature of the duties, that is controlling. See 55 Fed. Reg. 2616 (1990).

As a general rule, the period of the petitioner's need must be a year or less, although there may be extraordinary circumstances where the temporary services or labor might last longer than one year. The petitioner's need for the services or labor must be a one-time occurrence, a seasonal need, a peakload need, or an intermittent need. 8 C.F.R. 214.2(h)(6)(ii)(B).

Pursuant to 8 C.F.R. 214.2(h)(6)(iii)(A), the purpose of the United States Department of Labor ("USDOL") certification is to advise USCIS on whether or not United States workers capable of performing temporary services or labor are available and whether or not the alien's employment will adversely affect the wages and working conditions of similarly employed United States workers. The role of the USDOL in temporary worker proceedings is an advisory one and temporary labor certification determinations are not binding on USCIS. Matter of Golden Dragon Chinese Restaurant, 19 I. & N. Dec. 238 (Comm'r 1984). USCIS, therefore, maintains the authority to accept or not to accept the USDOL certification or lack of certification statement, and also maintains the ultimate authority in ascertaining whether the petitioner's need for the beneficiary's services is temporary.

To establish that the nature of the need is a "one-time occurrence," the petitioner must demonstrate that it has not employed workers to perform the services or labor in the past and that it will not need workers to perform the services or labor in the future, or that it has an employment situation that is otherwise permanent, but a temporary event of short duration has created the need for a temporary worker. 8 C.F.R. 214.2(h)(6)(ii)(B)(1).

The petitioner is a Postville, Iowa-based for-profit enterprise engaged in animal slaughtering and processing with 355 employees and a gross annual income of \$307 million. The petitioner seeks to temporarily employ the beneficiaries as General Laborers for a

period of one year based upon a temporary need which the petitioner alleges to be a one-time occurrence in nature.

In Section 2 of the Form I-129 Supplement H, the petitioner states:

...we are in dire need to replace our severely diminished workforce due to the totally unforeseen circumstance related to U.S. Immigration and Customs Enforcement's actions.

Additionally, counsel for the petitioner, in a letter dated August 06, 2008, states the following:

Due to a U.S. Immigration and Customs Enforcement raid on May 12, 2008, Agriprocessors, Inc. is in dire need of laborers to stem a shortage of available kosher meat and poultry to national consumers. The petitioner has been victimized by hundreds of workers who used false documentation to deceive the organization, misrepresenting their ability to legally work in the United States. *See Exhibit 5C - Original Petition.*

...

Per correspondence between my office and the Department of Labor, the Iowa Workforce Development office was unable to complete processing of the Temporary Labor Certification based on an inability to post job orders for the company. *See Exhibit 8 - Original Petition.*

Upon receipt of your [USCIS's] Request for Evidence, my office sent a written request to the appropriate Department of Labor representatives for the requested "reasons why the Secretary of Labor could not make the required certification" and directed those officers to provide your Service Center with a response.

On September 09, 2008, USCIS received a letter dated September 04, 2008, from Joe Walsh, Deputy Director, Iowa Workforce Development. That letter stated, in part, the following regarding why the Secretary of Labor could not make the required certification:

State health and safety, child labor and wage investigators have been inspecting the Postville plant for months. On March 20, 2008, the Iowa Division of Labor Services issued 39 citations against Agriprocessors for alleged multiple violations of state workplace safety and health standards. In June 2008, another investigation occurred due to an amputation at the plant, which ultimately resulted in a citation. Because of the alleged violations and concerns about continuing violations of labor end employment laws, on June 20, 2008, Iowa Workforce Development ("IWD") notified

Agriprocessors that IWD would no longer post job orders or refer job seekers to the Postville plant. Applicable federal regulations cited in my June 20 letter establish that IWD cannot provide job referral services when working conditions are contrary to employment-related. Federal Department of Labor officials concurred with Iowa's action. A copy of my June 20 letter is enclosed.

The June 20, 2008, letter from Joe Walsh, Deputy Director Iowa Workforce Development states the following:

This letter is notification that Iowa workforce Development can no longer provide referrals of job seekers as potential employees to your place of business and the referral of job seekers is immediately terminated. Investigations have shown and documentation has been provided, that health and safety standards and practices present in your place of business are in violation of Iowa law. The Code of Federal Regulations Title 20, Chapter V, Section 658, which governs Iowa Workforce Development operations, prevent us from providing job referrals to your business when working conditions are contrary to employment-related law. If you have questions about this, you may feel free to contact me at... Iowa Workforce Development staff has been notified and will no longer accept job listings and will no longer refer job seekers as potential employees until we are certain that all employment-related violations have been corrected.

You have 20 days from the date of this letter to provide adequate evidence that all health and safety violations have been or are being corrected and workers are protected from substantial harm resulting from the violation of Iowa law or to request a hearing from Iowa Workforce Development pursuant to The Code of Federal Regulations Title 20, Chapter V, Section 658.502 and 658.503(b).

So, contrary to the petitioner's claim that, "due to totally unforeseen circumstances" related to U.S. Immigration and Customs Enforcement's actions; and that it has been victimized by hundreds of workers who used false documentation to deceive the organization and misrepresenting their ability to legally work in the United States, it appears that, instead, the petitioner's inability to obtain a Labor Certification from the Department of Labor, is completely due to the petitioner's failure to comply with Iowa State health and safety violations.

Additionally, based on the evidence, it appears that the petitioner never attempted to resolve any of the health and safety violations that were cited in the June 20, 2008 letter. In fact, a copy of an Iowa Workforce Development News Release for August 22, 2008, that was included in Mr. Walsh's letter of June 20, 2008, states the following:

The Iowa Division of Labor initiated a follow-up safety inspection on July 08, 2008 at the Postville operation. Thirty-one citations were issued, including twenty-one serious and six repeat violations. Serious violations included failures to provide safety railing on raised work platforms, failure to properly store compressed gas cylinders, improper use of temporary wiring and failure to properly guard moving equipment.

Upon review, the petitioner's need cannot be considered a one-time occurrence, since the duties of general laborers in a meat packing plant are ongoing and cannot be classified as duties that will not need to be performed in the future.

If the duties are permanent in nature, the petitioner must clearly show that the need for the beneficiary's services or labor is of a short, identified length, limited by an identified event. In this case, general labor in a meat packing plant is the nature of the petitioner's business, and the need to have someone to perform general meat packing labor will always exist.

Therefore, the petitioner has not demonstrated that it has not employed full-time, permanent workers to perform the services or labor in the past. Also, the petitioner has not shown that the same terms and conditions were offered to United States applicants since all referrals of job seekers as potential employees to the petitioner's place of business were terminated by the Iowa Workforce Development.

Further, the petition indicates that the petitioner needs the beneficiary's services for one year. This time period does not demonstrate the petitioner has a temporary event of short duration. Consequently, the employment cannot be considered a one-time occurrence and for a temporary period.

Moreover, based on the petitioner's failure to comply with the State of Iowa's health and safety codes, USCIS is unable to determine when the petitioner may be allowed to accept United States workers for employment. Therefore the need for foreign workers may be ongoing and not a temporary one-time necessity.

No evidence was submitted of a temporary labor certification or that certification could not be made.

The second issue to be discussed is whether the petitioner has provided evidence of a temporary labor certification or a notice that certification cannot be made.

8 C.F.R. 214.2(h)(6)(vi) requires the petitioner to submit, inter alia, evidence of the following:

(A) Labor certification or notice. A temporary labor certification or a notice that certification cannot be made, issued by the Secretary of Labor or the

Governor of Guam, as appropriate;

(B) Countervailing evidence. Evidence to rebut the Secretary of Labor's or the Governor of Guam's notice that certification cannot be made, if appropriate . . .

Pursuant to 8 C.F.R. 214.2(h)(6)(iv):

(D) Attachment to petition. If the petitioner receives a notice from the Secretary of Labor that certification cannot be made, a petition containing countervailing evidence may be filed with the director. The evidence must show that qualified workers in the United States are not available, and that the terms and conditions of employment are consistent with the nature of the occupation, activity, and industry in the United States. All such evidence submitted will be considered in adjudicating the petition.

(E) Countervailing evidence. The countervailing evidence presented by the petitioner shall be in writing and shall address availability of U.S. workers, the prevailing wage rate for the occupation in the United States, and each of the reasons why the Secretary of Labor could not grant a labor certification. The petitioner may also submit other appropriate information in support of the petition. The director, at his or her discretion, may require additional supporting evidence.

Current regulations provide that prior to filing a petition with the director to classify an alien as an H-2B temporary worker, the petitioner shall apply for and obtain a temporary labor certification or a notice that certification cannot be made issued by the Secretary of Labor. The certification or notice must be attached to the visa petition when it is submitted. 8 CFR 214.2(h)(6)(iii)(A) and 8 CFR 214.2(h)(6)(iv)(D).

As already discussed above, the Department of Labor could not issue a notice that certification could not be made because the Iowa Workforce Development notified the petitioner that it would no longer accept job listings and would no longer refer job seekers as potential employees until they were certain that all employment-related violations had been corrected.

Since the petition is not supported by either the proper Department of Labor certification or the required notice detailing the reasons why such certification cannot be made, the petition is not properly supported and cannot be approved.

The H-2B nonagricultural workers will displace United States workers, or adversely affect their working conditions.

The third issue to be discussed is whether United States workers capable of performing

such services or labor were available and that they would be not be displaced or their wages and working conditions adversely affected.

8 C.F.R. 214.2(h)(6)(i) states the following:

(i) General. An H-2B nonagricultural temporary worker is an alien who is coming temporarily to the United States to perform temporary services or labor, is not displacing United States workers capable of performing such services or labor, and whose employment is not adversely affecting the wages and working conditions of United States workers.

Additionally, 8 C.F.R. 214.2(h)(6)(iv) states the following about labor certifications except for Guam:

(A) Secretary of Labor's determination. An H-2B petition for temporary employment in the United States, except for temporary employment on Guam, shall be accompanied by a labor certification determination that is either:

(1) A certification from the Secretary of Labor stating that qualified workers in the United States are not available and that the alien's employment will not adversely affect wages and working conditions of similarly employed United States workers; or

In the present case, United States workers are not even referred by the State of Iowa Workforce Development for jobs with the petitioning entity due to its failure to comply with State health and safety regulations. As such, it appears that qualified workers in the United States are not available because of the health and safety violations actually caused by the petitioner.

Since United States workers are unable to apply for jobs with the petitioner because of health and safety violations, it appears that bringing in 355 temporary workers to fill the void could only displace United States workers and have adverse effects on their working conditions.

As such, the beneficiaries are ineligible for classification as nonimmigrant workers to perform temporary services or labor.

Pursuant to INA 291, the burden of proof in these proceedings rests solely with the petitioner. Here that burden has not been met.

Consequently, the petition is hereby denied for the three above stated reasons, with each considered as an independent and alternative basis for denial.

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Fate of Agriprocessors detainees to be debated tomorrow

Feds lay groundwork for wage discrepancy case against Agriprocessors

By LYNDA WADDINGTON 10/1/08 4:13 PM

 BOOKMARK  

U.S. Magistrate Judge Jon Stuart Scoles has agreed to hold a telephone hearing Thursday morning to allow the U.S. Department of Labor to state its case for deposing nine former Agriprocessors workers prior to their deportation.

Documents filed with the court indicate that U.S. Secretary of Labor Elaine Chao and the federal agency are "currently investigating the pay practices at Agriprocessors, Inc." and expect to file "an action against Agriprocessors, Inc."

The nine men in question were detained in a May immigration raid at the kosher meatpacking plant in Postville. They entered guilty pleas to criminal charges and are now prisoners in Florida federal facilities. All nine are due to be deported from the U.S. on Oct. 10.

"The petitioner ... is presently unable to bring the action [against Agriprocessors] because additional evidence from employees regarding hours they worked without pay is needed," Andrea Christensen Luby, attorney for the agency, wrote in the motion filed Tuesday. "The payroll records of Agriprocessors, Inc. do not reflect all hours worked by the employees, and the testimony of employees is needed to establish the amount of back wages due the employees."

If granted permission to interview the former employees, the agency plans to discuss their dates of employment; departments in which they worked; their unrecorded hours worked pre-shift, post-shift and pre- and post-lunch break; their wages paid; their job duties; the protective equipment and clothing needed to perform their duties; and the procedures and policies regarding obtaining, donning and doffing of the protective gear.

Because of an addition motion to expedite the court proceedings, Scoles nearly immediately granted the telephone hearing between representatives from the Labor Department and Jeffrey A. Meyer, a New York-based attorney representing Agriprocessors.

Scoles has served as referring judge on at least four previous cases, ranging from 2004 to the present, that have involved Agriprocessors. To date his association with the quick criminal prosecution of immigration detainees at Agriprocessors has not been called into question in any other cases related to the meatpacking plant.

In August an attorney for Martin De La Rosa-Loera, a former supervisor at Agriprocessors who has pleaded guilty to encouraging illegal immigration, filed a motion that questioned Chief Judge Linda R. Reade's participation. In addition to her leadership role in the more than 300 criminal cases, the attorney pointed to comments Reade made in the press as possible defense of the quick proceedings in makeshift

courtrooms. Reade said Tuesday that she has not formed any opinions about the De La Rosa-Loera case and refused to recuse herself from the upcoming sentencing.

Prior to the raid Agriprocessors was the nation's largest producer of kosher meat. The plant continues to struggle to rebuild its workforce and return to pre-raid levels of production. Officials with Agriprocessors could not be reached for immediate comment due to a Jewish holiday.

It remains unclear if the wage investigation by the Department of Labor began recently or was one of the items already under investigation prior to the May raid. If this investigation does lead to action, it would mark the third such ongoing government case against the meatpacking company.

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Brittanicus 12 hours ago

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CATEGORIES AND TAGS IN THIS STORY:

Agriculture, Civil Rights, Economy, Agriprocessors, Jon Stuart Scoles, Linda Reade, Martin De La Rosa-Loera

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Referred to Wage Hour

55-3963-0006-PC-J
09/15/2008

Case Information:
Title: OPERATION CEDAR VALLEY JUNCTION
Date Opened: 05/05/2008
Criminal Activity: IDY FRD
Violations: 18 USC 1028 & USC 1324
Last Serial Number in File: 43
Total Hours (period):
Total Hours:
Total Amount of Expenditures:
Joint Agencies: ICE

Index Information:
[REDACTED] (SUBJECT)
SSN: [REDACTED]
[REDACTED] (WITNESS)
SSN: [REDACTED]
[REDACTED] (SUBJECT)
SSN: [REDACTED]
(SUBJECT)
EIN: [REDACTED]

Case Opening Synopsis:
The basis for this investigation is a request from the U.S. Attorney Office, Northern District of Iowa to provide assistance with the investigation of Agriprocessors, Inc. (Agriprocessors) in Postville, Iowa. Immigration and Customs Enforcement (ICE) is conducting an investigation of Agriprocessors in coordination with other agencies. There are allegations involving the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking and worker exploitation issues. Agriprocessors is one of the world's largest kosher meat producers. The company produces beef, poultry, turkey and lamb. The plant has been the center of controversies for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, OSHA records show twenty violations at Agriprocessors; seven serious violations. In 2001, EBZA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

Case File Review Synopsis:
FOR THE PERIOD ENDING SEPTEMBER 15, 2008 UPON INITIATION OF THIS CASE THE REPORTING AGENT CONTACTED USDOL WAGE AND HOUR INVESTIGATORS REGARDING AN ONGOING CIVIL INVESTIGATION CONCERNING ALLEGATIONS OF CHILD LABOR VIOLATIONS, WAGE AND HOUR DIVISION PROVIDED INFORMATION REGARDING THEIR INVESTIGATION, INCLUDING A COPY OF THEIR OFFICIAL FILE. THE REPORTING AGENT ALSO CONTACTED ONE OF [REDACTED] COOPERATING WITNESSES (WITH [REDACTED]) IN MAY 2008 OLRFI AGENTS OF THE ST LOUIS AND KANSAS CITY OFFICES PARTICIPATED IN THE EXECUTION OF A FEDERAL SEARCH WARRANT ON THE ADMINISTRATIVE OFFICES OF AGRIPROCESSORS, INC. SIMULTANEOUSLY, SA'S OF ICE, USMS, USDA AND OTHERS ARRESTED MORE THAN 390 ILLEGAL ALIENS WHO WERE WORKING AT THE AGRIPROCESSORS MEATPACKING FACILITY. MOST OF THE ALIENS WERE CHARGED WITH ILLEGAL ENTRY AND MISUSE OF A SOCIAL SECURITY NUMBER. THE FOCUS OF OLRFI'S INVESTIGATION IS VISA FRAUD. AGRIPROCESSORS IS SUSPECTED OF MISUSING WORKERS WHO ENTERED THE US ON HI-B AND OTHER VISAS.

Criminal Results:
Indictments: 2
Incarcerations: 0
on Probation: 0
Fines: 0
Other: 0
Convictions: 0
Months Incarcerated: 0
Months Probation: 0
Forfeit: 0
Debarments: 0
Dismissals: 0
Restitutions: 0
Years Debarred: 0

Civil Results:
Complaints Filed: 0
Damages:
Fines:
Debarments: 0
Consents Signed: 0
Penalties:
Settlements:
Years Debarred:
Judgments: 0
Forfeitures:
Other:

Administrative Results:
Cases Referred: 0
Cost Efficiencies: 0

Amount of Recoveries (less Cost Efficiencies):

Techniques:
May 6, 2008 Examination of Documents [REDACTED]
IN MAY 2008 I RECEIVED AND EXAMINED CASE FILE RECORDS FROM USDOL WAGE & HOUR DIVISION'S CHILD LABOR INVESTIGATION ON AGRIPROCESSORS
May 12, 2008 Interviewing [REDACTED]
interviewed legal resident alien and illegal alien employees of Agriprocessors Inc.
May 19, 2008 Search Warrants
Executed federal search warrant at the offices of Agriprocessors Inc.

Investigative Results Obtained Since the Last Review:
IN MAY 2008 OLRFI PARTICIPATED IN THE EXECUTION OF A FEDERAL SEARCH WARRANT, CONDUCTED MULTIPLE INTERVIEWS AND EXAMINED DOCUMENTS

Objectives for the Next 6 Months:
IN THE NEXT 6 MONTHS I EXPECT TO REVIEW EVIDENCE WHICH WAS SECURED IN THE CONDUCT OF THE SEARCH WARRANT. I EXPECT MEMBERS OF AGRIPROCESSOR'S ADMINISTRATIVE OFFICES TO FACE CHARGES. I PLAN TO PROVIDE SUPPORT AS NECESSARY TO THE US

ATTORNEY'S OFFICE AND ICE CASE AGENT.

Problems Encountered:


THIS CASE HAS RECEIVED CONSIDERABLE NATIONAL MEDIA ATTENTION (BOTH POSITIVE AND NEGATIVE). NOT ONLY IS THE WORKSITE MANY HOURS DRIVE FROM ST LOUIS, BUT ACCESS WAS FURTHER COMPLICATED BY SEVERE FLOODING IN IOWA WHICH FORCED THE US ATTORNEY'S OFFICE AND ICE'S OFFICE TO RELOCATE. SEARCH WARRANT EVIDENCE WAS INITIALLY SENT TO ICE HQ IN WASHINGTON DC TO BE SCANNED INTO THEIR ELECTRONIC SYSTEM. FUNDING FOR THE PROJECT RAN OUT BEFORE COMPLETION OF THE SCANNING. THE FLOOD INITIALLY PREVENTED THE EVIDENCE FROM BEING PHYSICALLY RETURNED TO IOWA. THIS ISSUE WAS JUST RECENTLY RESOLVED BY THE EVIDENCE BEING PHYSICALLY RETURNED TO IOWA.

Guidance:

Continue to focus investigative efforts on identifying H-1B workers and review records and evidence from the search warrant to determine whether misrepresentations were made on 9035 forms submitted to DOL OFLC. Coordinate efforts with ICE. Keep ASAC apprised of ongoing efforts and potential issues.

ENTRY SHEET

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Agriprocessors Inc		
Defendant: (b) (7)(C) (Last)		[REDACTED] (First)		
Date Presented: 5/12/08	Presented To: F <input checked="" type="checkbox"/>	District: N/A <input checked="" type="checkbox"/>	Exception:	Sealed:
Date Declined:	Date Arrested: 9/9/08 <input checked="" type="checkbox"/>			
Date Charged: 9/9/08 <input checked="" type="checkbox"/>	Dates Superseded:			
Charges 8 USC 1324	Type 1 <input checked="" type="checkbox"/>	Disp	Defer	Outcome Code: Outcome Date: Docket#: Sentenced/Pre-Trial Date:
REMARKS/COMMENTS: 				Inc (Mos): Prob (Mos):
				Fines: Comm. Srvc Hrs:
				Forfeits: Rest:
				OTHER:
				DEBARMENT (Yrs):
				29USC504: (Y/N)
				29USC1111: (Y/N)

ENTRY SHEET

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Agriprocessors Inc		
Defendant: (b) (7)(C)				
(Last)		(First)		
Date Presented: 5/12/08 ✓	Presented To: F ✓	District: N/IA ✓	Exception:	Sealed:
Date Declined:	Date Arrested: 9/9/08 ✓			
Date Charged: 9/9/08 ✓	Dates Superseded:			
Charges	Type	Disp	Defer	Outcome Code:
8 USC 1324	1 ✓			Outcome Date:
18 USC 1546	1 ✓			Docket#:
18 USC 1028A	1 ✓			Sentenced/Pre-Trial Date:
REMARKS/COMMENTS:				Inc (Mos):
				Prob (Mos):
				Fines:
				Comm. Srvc Hrs:
				Forfeits:
				Rest:
				OTHER:
				DEBARMENT (Yrs):
				29USC504: (Y/N)
				29USC1111: (Y/N)



Case Activity Report
 U.S. Department of Labor
 Office of Inspector General
 Office of Labor Racketeering And Fraud Investigations



Date of Event:	September 9, 2008	Region:	Chicago	Case No.:	55-3963-0006-PCJ
Location:	Postville, Iowa	Subject/Title:	Operation Cedar Valley Junction	Case Agent:	(b) (7)(C)
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Conviction <input type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other: <u>Criminal Complaint</u>					

DETAILED SUMMARY:

On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. [REDACTED] was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). [REDACTED] was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

PREVIOUSLY REPORTED:

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

See Attachment	Press Clippings/Releases Plea Agreements/Judgments	Yes	Dissemination Restricted To	Unrestricted
Submitted By:	SA [REDACTED]	Date:	9/11/08	OIG-15 (OLRFI 12/03)

29 pages

Referred to DHS ICE



CONGRESSIONAL HEARING REPORT

TOPIC: Immigration Raids: Postville and Beyond
COMMITTEE: House Judiciary Committee; Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law
DATE: July 24, 2008
INTERNET: http://judiciary.house.gov/hearings/hear_072408.html

Committee Members (Present in Bold):	
Majority (Democrats)	Minority (Republicans)
Zoe Lofgren, Chairman (D-CA)	Steve King, Ranking Member (R-IA)
Luis V. Gutierrez (D-IL)	Elton Gallegly (R-CA)
Howard L. Berman (D-CA)	Bob Goodlatte (R-VA)
Sheila Jackson-Lee (D-TX)	Dan Lungren (R-CA)
Maxine Waters (D-CA)	J. Randy Forbes (R-VA)
Bill Delahunt (D-MA)	Louie Gohmert (R-TX)
Linda T. Sanchez (D-CA)	
Artur Davis (D-AL)	
Keith Ellison (D-MN)	
Anthony Weiner (D-NY)	

WITNESSES

First Panel

Bruce Braley (D-IA)
Sheila Jackson-Lee (D-TX)
Lynn Woolsey (D-CA)
David Davis (R-TN)

Second Panel

Deborah Rhodes, Senior Associate Deputy Attorney General, DOJ
Marcy Forman, Director of Investigations, ICE, DHS

Third Panel

Erik Camayd-Freixas, Ph.D., Professor, Florida International University
David Leopold, Attorney, Leopold & Associates
Robert Rigg, Associate Professor of Law, Drake University Law School
Lora Costner, Identity theft victim

BACKGROUND

The worksite enforcement action against Agriprocessors, a meatpacking plant located in Postville, Iowa, was the largest immigration raid in the United States. Nearly 400 employees were arrested. Most of the workers accepted plea agreements on a lesser charge of Social Security fraud. They were given five months of jail to be followed by deportation.



During the hearing, the OIG was mentioned only a few times. During an exchange with Chairwoman Lofgren, Rep. Braley advised he had just received confirmation that the DOL-OIG had been notified in advance of the Postville enforcement action and that the OIG had been instructed not to notify anyone. Further mention of the DOL-OIG was limited to fact that the OIG had played a role in the enforcement action.

The majority panel repeatedly expressed concerns that the worksite enforcement action complicated an existing investigation into labor violations at the meat processing plant. Rep. Braley complained that the measures might impede the DOL's investigation. At one point, the Chairperson wondered whether an "active decision" was made to not tell DOL, since the enforcement actions diminished the likelihood that the workers would testify against the employers. Specifically she said the enforcement actions may have "interfered" with ongoing labor investigations. In contrast, the minority panel repeatedly called for the enforcement of the immigration laws.

TESTIMONY

Rep. Braley spoke of the "conflicting information" provided by DOL and DHS on whether DOL had been informed in advance of the impending enforcement actions at Agriprocessors. However, he did acknowledge during the questions and answers that the OIG had advance knowledge of the impending actions. Rep. Braley pressed for better communications between the agencies and that lawbreaking employers are investigated and prosecuted.

Rep. Jackson-Lee requested investigations into the raids that took place in Houston businesses, Do-Nuts and Action Rags USA. She expressed concern that the detainees were not being fairly treated and being denied their basic civil rights.

Rep. Woolsey focused on the treatment of the families during the raids.

Ms. Rhodes comprehensively explained the worksite enforcement that has taken place recently. Then she explained in detail the process undertaken at Agriprocessors. Ms. Rhodes thoroughly discussed various aspects, including: booking; immigration counsel; defense counsel and discovery; Counsel and Congressional Staff; Identity Theft and Immigration Charges; and Court Hearings.

Ms. Forman also detailed DHS' process in the enforcement action at Agriprocessors. She emphasized the humanitarian aspects of the operation. Her testimony mentioned that the DOL-OIG played a role in the worksite enforcement action.

QUESTIONS AND ANSWERS

Chairwoman Lofgren, who is a former immigration attorney, said she found the DOJ's actions in Postville "unusual and provocative" and that she had "questions about whether they meet the requirements of due process that is guaranteed in our Constitution." She said that it would now be "difficult" for ongoing labor investigations to make their case, since several witnesses have been deported and moved to other locations.



The Chairwoman and other members of the Democratic panel focused on the allegation that the Administration was targeting workers instead of employers in these worksite enforcement actions. The Democrats also suggested that the operation was less than humanitarian or ethical. The Chairwoman said "the information suggests that the people were rounded up, herded into a cattle arena, prodded down a cattle chute, coerced into guilty pleas and then to federal prison." According to her, the actions resembled a "cattle auction."

House Judiciary Committee Chairman Conyers spoke of the "meanness" and the "brutality" of the enforcement actions. He requested that communication between the said agencies be improved. Chairman Conyers expressed concern that the Wage and Hour case may have been "blown."

Ranking Member King reminded the first panel that those workers who had obtained false Social security numbers had committed crimes impacting legal workers via identity theft in order to work. He stressed that these enforcement actions would deter the employers, as well as the workers, from committing these types of crimes. The Ranking Member expressed concern the hearing would "intimidate" immigration agents from doing their job. Because of "leaks", Ranking Member King suggested that DHS had good reason to not inform the Department.

While questioning the first panel, Rep. Gutierrez strongly asserted that the immigrants were basically forced to accept the lesser charge of Social Security fraud, since the more serious charge of identity theft involved having to face several years' imprisonment. He asked Rep. Braley to inquire on the total agency costs of the Agriprocessors and the Swift raids.

While questioning Rep. Jackson-Lee, Rep. Lungren asserted that undocumented workers in the construction industry take jobs away from legal workers. He cited the high unemployment rate among African-American men and implied a direct correlation to the presence of undocumented workers.

Upon being questioned by the majority panel, the DOJ representative, Ms. Rhodes, stated the workers were given one week to decide whether to accept the plea agreement. She advised the workers appeared in groups of ten at the plea hearings. She also defended the "fast-tracking" process, which prevented the courts from being overwhelmed and resulted in reduced sentences. Ms. Rhodes said ICE had investigated Agriprocessors for years and determined that "more than 70 percent" of the detainees had used fraudulent documentation. She emphasized that the atmosphere was "calm and orderly." According to her, constitutional rights were observed and the detainees were treated well.

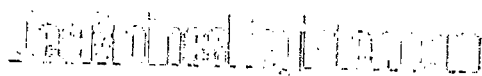
When questioned by Ranking Member King whether DHS had coordinated in advance with the DOL-OIG, both Ms. Rhodes and Ms. Foreman replied yes.

The DHS representative, Marcy Forman, said workplace actions target employers who "adopt a business model of employing and exploiting undocumented workers." She said "continued aggressive enforcement is establishing a culture of immigration compliance in America." Like DOJ, Ms. Forman said that the enforcement actions were humanitarian. As a person of Jewish



descent, she objected strongly when the holding area at the National Cattle Congress was likened to a "concentration camp."

016 CASE



August 10, 2008

Teens used fake IDs to land dangerous jobs

By NIGEL DUARA
nduara@dmreg.com

Postville, Ia. — Ana Cecilia Arguello was 15 when she first started handling slaughtered chickens at Agriprocessors Inc., a meat-processing plant where hundreds of worker injuries have been reported.

Most of the time during Arguello's two years at Agriprocessors, she weighed and labeled chicken parts. But when the plant was short of workers, Arguello said she was sent to the organic chicken processing part of the plant where she worked with knives and electric saws.

"I cut myself, all over my hands," said Arguello, who typically worked 12-hour days, six days a week. "The knife was slippery."

Training, she said, amounted to a 20-minute video on the day she was hired.

Arguello, now 17 and married with a child, lost her job on May 12 when federal officials raided the plant and detained 389 workers in the country illegally. Twelve juveniles were among the detainees.

Last week, Iowa's labor commissioner urged the Iowa attorney general to pursue charges against Agriprocessors of criminal violations related to underage Iowa workers. The plant could face up to \$1 million in fines stemming from the alleged hiring of 57 juveniles, ranging from 14 to 17 years old.

Agriprocessors officials say that the teenagers who worked at the plant used fake documents to get jobs, so plant supervisors didn't know they were underage. A company spokesman asked the public to keep an open mind.

In general, it is illegal in Iowa for a company to employ workers 17 or younger in the slaughter and packing areas of poultry or meat plants.

Meat-processing plants are considered among the more dangerous types of places to work in America. State records related to workplace injuries at the Postville plant show that between 2003 and 2005, the company reported 306 employee injuries, including chemical burns, smashed limbs, hand lacerations and severed fingers.

Dave Neil, Iowa's labor commissioner, last week said that investigators found numerous child labor law violations, including employing minors in prohibited occupations; allowing them to work longer hours than permitted under law; exposing them to hazardous chemicals; and allowing them to work with prohibited tools.

Some people affiliated with the Postville school district said that many in the community suspected Agriprocessors employed underage workers. They said it was not uncommon for young teenagers to arrive in Postville and go right to work at Agriprocessors.

Arguello was one of those teenagers.

Young workers say age wasn't questioned

Arguello, with help from a human smuggler, entered the country illegally from Guatemala on Dec. 11, 2005. She arrived in Postville by herself.

Arguello said she started working at Agriprocessors on a Tuesday, hiring day at the plant, considered the largest kosher meat-processing plant in the world. Arguello said she had already bought fake work papers and an identification card from someone in Postville who specialized in producing the documents. The fake documents said she was 22.

"You could tell we weren't 18," Arguello said in Spanish last week. "They probably knew. We didn't look old enough."

Arguello said she presented herself at the human resources department and submitted her fake paperwork.

"They came down and said they had a job," said Arguello, whose starting pay of \$6.25 an hour had grown to \$7.50 an hour before the raid. She said she sent money to her parents in Guatemala.

No one at the plant questioned her age, Arguello said, either on the day of her hiring or after she was employed.

"They were happy to get (us)," she said. "I think they needed workers and didn't care."

Elizandro Gomez, 16, who is Arguello's brother-in-law, said he went through a similar hiring procedure in June 2007, days after he made it to Postville from Guatemala. He said he was 15 when he started working at the plant, although his fake papers said he was 21.

Gomez said he didn't get any extra scrutiny about his age, nor did the two other minors in his part of the plant. "They never asked."

Arguello — who each morning prepared for work at the cold plant by donning two pairs of pants, three blouses, a pair of socks and filthy shoes — said she usually felt comfortable at her job. The exceptions, she said, were when she worked on the chicken processing line and production kicked into high gear.

She said supervisors in green and yellow helmets yelled at her to speed up.

The meat flew by quickly, said Arguello, who has a wide face and round, bright eyes, and giggles with a girlish crescendo. Sometimes, she said she dropped pieces of chicken on the floor. Supervisors told her to wash the chicken with a chemical disinfectant and put it back on the line.

It was fast, dirty work, she said. Next to her were a barrel for meat and a barrel for trash. Her 12 hours were spent filling the barrels, her hands covered in fat, blood and sinew.

Arguello, who didn't go to school in Guatemala or Postville, said she bled when she was clumsy with a boning knife. "They gave me Band-Aids," she said.

Arguello said she never filed an injury claim. She said she didn't know she could.

Agriprocessors has no record of Arguello's injuries or her job, spokesman Menachem Lubinsky said.

"If she did work there, she obviously used a false name," Lubinsky said.

Initial investigation had sought minors

Lubinsky said the labor commissioner's office began the child labor investigation in January. Investigators asked about the plant's hiring procedures; Agriprocessors said it didn't employ minors.

Lubinsky said.

Five investigators from the labor commissioner's office conducted "a surprise, on-site inspection of the plant," according to a release from Lubinsky. "The team consisted of five inspectors, of whom one was described by the government office as a professional in identifying minors."

The investigators didn't find any minors, Lubinsky said, but two weeks later an unidentified attorney told the plant that the labor commissioner's office still believed it would find minors.

He said Agriprocessors requested that the labor commissioner's office identify the teenagers so that they could be fired, but the office refused.

At about the same time, Postville school officials were served with a 21-point subpoena from the Iowa Division of Labor Services seeking the records of Postville middle and high school students and information about school employees.

Investigators from the U.S. Department of Labor sought former Postville schools Superintendent David Strudthoff's work computer, as well as records between 2005 and 2007 for current and former students in the district.

A month later, the plant was raided by U.S. Immigrations and Customs Enforcement.

The move angered union officials, who were trying to organize Agriprocessors workers and who had reported instances of child labor violations.

In the Agriprocessors child labor investigation, with 57 separate cases — each involving multiple violations over an undefined period of time — the minimum fine could be between \$500,000 and \$1 million.

Strudthoff, who now has a similar job out of state, said it was no secret that minors worked at the plant. However, he and others said they were taken aback by the allegation from the labor commissioner's office.

"The numbers are a little surprising to us," Strudthoff said.

In late July, several teenagers told three members of the U.S. Congressional Hispanic Caucus that they took production-line jobs at Agriprocessors when they were 14 or 15, and that they often worked shifts lasting 12 hours or more.

Arguello, who was working the day of the raid and was detained and then released, said she saw at least two other minors in her area of the plant. They were about her age, she said.

Current and former Postville teachers and school officials said that when a student left school, they usually assumed he or she went to work for the plant.

Strudthoff said many teens felt the tug of helping provide for their families — in Postville as well as in their home countries.

"When you've got grandmothers and parents living back in home countries, money is always an issue," he said.

Many teens chose jobs over going to school

Postville Elementary and Middle School Principal Chad Wahls said that many teens who worked at the plant never attended school.

"A lot of those kids came (to Postville) and went right to work," he said.

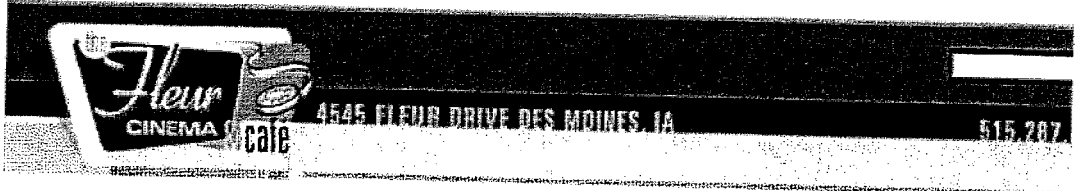
While driving through Postville, Wahls said he would sometimes see young-looking Hispanics he didn't recognize from school. He would pull over and ask them their ages, but "that doesn't mean they can't lie to us."

"We would've loved to have all those kids in school for funding and stuff, and of course to educate them," he said. "It's a shame that kids 14 years old were working at a place like that. We did everything possible to find them and get them educated and keep them."

Strudthoff said the school district held night English classes at the local community college on Tuesdays and Thursdays to try to bring teenagers who weren't enrolled "out of the shadows."

On the first day of class each year, about 30 or 40 teenagers would show up, Strudthoff said, usually about 16 years old or older.

"They'd been in town for months, maybe a year," Strudthoff said, "and they're all looking at each other. They'd never seen each other before."



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FOVERE

Counterfeit green cards tied to plant

BY TONY LEYS • TLEYS@DMREG.COM • JULY 30, 2008

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Postville, Ia. — Federal agents who raided the Agriprocessors meatpacking plant here in May found evidence that a human resources department employee helped distribute false immigration documents to workers, court papers say.

The agents said they found about 96 fraudulent resident-alien cards in the human resources department. Many of the cards were grouped in stacks. Most of the cards, commonly known as green cards, appeared to have been made by the same forger, the court papers say.

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About a dozen of the cards had photos of people who worked at the plant but different names than those people used on the job, the court papers say.

The court papers do not say who is suspected of making the cards.

The green cards were discovered during the May 12 raid at Agriprocessors, in which 389 workers were arrested. Most of the workers were charged with using false identities to obtain jobs even though they were in the country illegally.

The raid, the largest in U.S. history at a single site, took nearly half of Agriprocessors' work force. Members of the family that owns the plant say the workers duped company executives into believing they were in the United States legally. A company representative declined to comment on the allegations in the court papers, saying lawyers have told company leaders not to speak about any part of the investigation.



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The allegations about the human resources department are contained in papers that federal prosecutors filed this month to support criminal charges against Agriprocessors supervisor Juan Guerrero-Espinoza, who oversaw the beef kill department. He and another supervisor were charged with aiding the use of fraudulent identity documents and encouraging immigrants to reside illegally in the United States. Guerrero-Espinoza also faces one count of aiding and abetting identity theft.

41

The plant's owners and top executives have not been charged in the case, but court documents indicate a federal grand jury continues to look into the matter.

Immigration agents said in court papers that several former plant workers who were in the United States illegally said Guerrero-Espinoza told them that they needed new cards and Social Security numbers and that they should give him \$200 to \$220 and a photograph of themselves.

The workers told authorities that a few days later, an unidentified human resources employee handed them the false cards.

A national expert was surprised to hear that an employee in a company's human resources department was accused of helping distribute false green cards. "I've never heard of that before," said Nadine Wettstein, legal director of the American Immigration Law Foundation. "That doesn't mean it's never happened, but we don't usually see that kind of smoking gun."

An immigration lawyer representing 49 of the former plant workers said the allegations dovetail with what her clients have told her. Sonia Parras Konrad, who works for the Benzoni firm in Des Moines, said former workers told her that in the weeks before the raid, supervisors told them that they had to pay for new identification cards. "The choice was pay \$200 and get a new card or be fired," she said. Supervisors did not say why the new cards were needed, but they reportedly offered to let the workers borrow the money, if need be, she said.

Parras Konrad said some workers told her that they received their new cards from the human resources department. She said they told her the process seemed official. "You might think they were naive or they're lying, but some of them thought these were good documents," she said.

Most of the workers who were arrested were immigrants from Guatemala. Supporters have said they were poor, uneducated people who came to Postville looking to work. Immigration lawyers have argued that their clients are not guilty of purposely stealing identities, because they didn't understand what was involved in obtaining the false identification cards.

Wettstein said that if prosecutors hadn't pressured the former workers into quickly pleading guilty, defense lawyers might have been able to use evidence of the human resources official's complicity to argue that their clients did not intend to commit the crime of identity theft.

Nobody from the human resources department has been charged publicly. A spokesman for the U.S. attorney's office declined to comment on the matter.

Members of the Rubashkin family, which owns the plant, have said the company unknowingly hired immigrants who presented false papers.

"People coming there looking for jobs - they bring ID with a photo, with a number," company founder Aaron Rubashkin told the Jewish news agency JTA in June. "With the same card, the person go to the bank. With the same card, he got his credit card. With the same card he bought a car."

Rubashkin's grandson, Getzel Rubashkin, made a similar point to reporters Sunday in Postville. "The high number of illegal people who were working here is more a testimony to the quality of their deceit, of their papers," Getzel Rubashkin said, emphasizing that he was not speaking as a representative of the company.

Company leaders say their replacement employees now are being hired by staffing agencies that use a national, computerized system to ensure that immigration papers are valid.

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coldcts wrote:

Benzoni , another sleaze, outta be disbarred
7/30/2008 8:53:22 AM

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Scaredlowan wrote:

although it appears that the company (or just an employee, no need to jump to conclusions yet), were assisting these undocumented workers in getting falsified identification, the individuals (workers) are in violation of the law and should be delt with accordingly. On the other hand, if it is proven that the company (executives) were complicit in the conspiracy then they need to face SIGNIFICANT fines and PROLONGED jail time. I understand their attempting to skirt the law in order to keep their company in business, our economic environment is causing a lot of businesses to seek out alternatives to legal/moral operations. I hope our Legislators are paying attention to all of these businesses that have been around for years that won't be around much longer. It is a tragic situation brought on by poor government. Lets try to improve Iowa from the top down by using our votes to clean out these poor legislators and fill their places with thoughtful, intellegent individuals!

7/30/2008 8:53:12 AM

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sammy1 wrote:

They didn't know the green cards were false..come on...Until the Gov. starts going after these businesses...nothing will change.

7/30/2008 8:51:48 AM

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oldad wrote:

"they found about 96 fraudulent resident-alien cards in the human resources department"

The voices in my head see a scenario where the HR professional (trained in hiring practices and labor standards and requirements?) running a little sideline enterprise selling replacement green cards.

Applicant: "I have no green card"

HR to applicant: "No card?" pay \$200 and get a new card or be fired,"

Applicant: " Here is the \$200."

HR: "No problem. Pick one out of this pile."

Applicant: I'm 'legal' now?"

HR: "Legal enough for a duped HR to hire."

Applicant: "Gracias"

HR: "Got any friends or family looking for work? If so, take a couple extra cards for them."

7/30/2008 8:47:56 AM

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potsieweber wrote:

Replying to algibson:

Agriprocessors should get a business "death penalty" for crimes against humanity, the environment, and flaunting our nation's laws. They should be shut down permanently.

Agreed.

7/30/2008 6:45:13 AM

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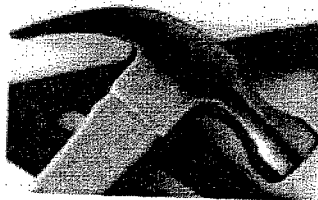
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OIG

From: Vanderberg, James - OIG

Sent: Monday, July 28, 2008 8:38 AM

To: Theis, Joseph - OIG; Dixon, Robert - OIG; Blake, Robin - OIG; Farreii, Thomas - OIG; Clark, Richard - OIG; Carnohan, Susan - OIG; Ceglia, Helen - OIG; Jones, David - OIG; Lagda, Jeffrey - OIG; Lee, Nancy - OIG; Maxwell, Lakeiya - OIG

Cc: Barcus, Michael - OIG; [REDACTED] OIG

AFTER IOWA RAID, IMMIGRANTS FUEL LABOR INQUIRIES

Chicago Tribune

July 27, 2008

POSTVILLE, Iowa — When federal Immigration agents raided the kosher meatpacking plant here in May and rounded up 389 illegal immigrants, they found more than 20 under-age workers, some as young as 13.

Now those young immigrants have begun to tell investigators about their jobs. Some said they worked shifts of 12 hours or more, wielding razor-edged knives and saws to slice freshly killed beef. Some worked through the night, sometimes six nights a week.

One, a Guatemalan named Elmer L. who said he was 16 when he started working on the plant's killing floors, said he worked 17-hour shifts, six days a week. In an affidavit, he said he was constantly tired and did not have time to do anything but work and sleep. "I was very sad," he said, "and I felt like I was a slave."

At first, labor officials said the raid had disrupted federal and state investigations already under way at Agriprocessors Inc., the nation's largest kosher plant. The raid has drawn criticism for what some see as harsh tactics against the immigrants, with little action taken against their employers.

But in the aftermath of the arrests, labor investigators have reaped a bounty of new evidence from the testimony of illegal immigrants, teenagers and adults, who were caught in the raid. In formal declarations, immigrants have described pervasive labor violations at the plant, testimony that could result in criminal charges for Agriprocessors executives, labor law experts said.

Out of work and facing deportation proceedings, many of the immigrants say they now have nothing to lose in speaking up about the conditions in the plant. They have told investigators that they were routinely put to work without safety training and were forced to work long shifts without overtime or rest time. Under-age workers said their bosses knew how young they were.

Because of the dangers of the work, it is illegal in Iowa for a company to employ anyone under 18 on the floor of a meatpacking plant.

In a statement, Agriprocessors said it did not employ workers under 18 and would fire any under-age worker found to have presented false documents to obtain work.

To investigate the child labor accusations, the federal Labor Department has joined with the Iowa Division of Labor Services in cooperation with the state attorney general's office, officials for the three agencies said.

Sonia Parras Konrad, an Immigration lawyer in private practice in Des Moines, is representing many of the young workers. She said she had so far identified 27 workers under 18 who were employed in the packing areas of the plant, most of them illegal immigrants from Guatemala, including some who were not arrested in the raid.

"Some of these boys don't even shave," Parras Konrad said. "They're goofy. They're teenagers."

7/28/2008

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At a meeting here Saturday, three members of the House Hispanic Caucus — including its chairman, Rep. Luis V. Gutierrez, D-Ill. — heard seven immigrant minors describe working in the Agriprocessors plant.

Iowa labor officials said they rarely encounter child labor cases even though the state has many meatpacking plants.

"We don't normally have many under-age folks working in our state," said Gail Sheridan-Lucht, a lawyer for the state labor department, who said she could not comment specifically on the Agriprocessors investigation.

Other investigations are also under way. The Equal Employment Opportunity Commission is examining accusations of sexual harassment of women at the plant. Lawyers for the immigrants are preparing a suit under the federal Fair Labor Standards Act for wage and hour violations.

Federal justice and Immigration officials, speaking on Thursday at a hearing in Washington of the House Judiciary Immigration subcommittee, said their investigations were continuing. A federal grand jury in Cedar Rapids is hearing evidence about Agriprocessors.

While federal prosecutors are primarily focusing on Immigration charges, they may also be looking into labor violations. Search warrant documents filed in court before the raid, which was May 12, cited a report by an anonymous immigrant who was sent to work in the plant by Immigration authorities as an undercover informant. The immigrant saw "a rabbi who was calling employees derogatory names and throwing meat at employees."

Jewish managers oversee the slaughtering and processing of meat at Agriprocessors to ensure kosher standards.

In another episode, the informant said a floor supervisor had blindfolded an immigrant with duct tape. "The floor supervisor then took one of the meat hooks and hit the Guatemalan with it," the informant said, adding that the blow did not cause "serious injuries."

So far, 297 illegal immigrants from the May raid have been convicted of document fraud and other criminal charges, and most were sentenced to five months in prison, after which they will be deported.

A spokesman for Agriprocessors, Menachem Lubinsky, said the company could not comment on an active investigation.

"The company has two objectives in mind: to restore its production to meet the demands of the kosher food market and to be in full compliance with all local, state and federal laws," Lubinsky said. Reports of labor violations at the plant "remain allegations only, that no agency has charged the company with," he said.

The Agriprocessors kosher plant here has been owned and operated since 1987 by Aaron Rubashkin and his family. His son Sholom was the plant's top manager until he was removed by his father in May after the raid. The plant's products are distributed across the country under brands including Aaron's Best and Aaron's Choice.

Most of the young immigrants were hired at Agriprocessors after they presented false Social Security cards or other documents saying they were older than they were.

But in an interview here, Elmer L. said he had told floor supervisors that he was under 18. He asked that his last name not be published on advice of his lawyer, Parras Konrad, because he is a minor in deportation proceedings.

"They asked me how old I was," Elmer L. said. "They could see that sometimes I could not keep up with the work."

Elmer L. said that he regularly worked 17 hours a day at the plant and was paid \$7.25 an hour. He said he was not paid overtime consistently.

"My work was very hard, because they didn't give me my breaks, and I wasn't getting very much sleep," he said. "They told us they were going to call Immigration if we complained."

Elmer L. said that he was clearing cow innards from the slaughter floor last Aug. 26 when a supervisor he

described as a rabbi began yelling at him, then kicked him from behind. The blow caused a freshly sharpened knife to fly up and cut his elbow.

He was sent to a nearby hospital where doctors closed the laceration with eight stitches. But he said that when he returned to the plant, his elbow still stinging, to ask for some time off, his supervisor ordered him back to work.

The next day, as he was lifting a cow's tongue, the stitches ruptured, Elmer L. said, and the wound bled again. He said he was given a bandage at the plant and sent back to work. The incident is confirmed in a worker's injury report filed on Aug. 31, 2007, by Agriprocessors with the Iowa labor department.

Gilda O., a Guatemalan who said she was 16, said she worked the night shift plucking chickens. She said she was working to help her parents pay off debts.

Another Guatemalan, Joel R., who gave his age as 15, said he dropped out of school in Postville after the eighth grade and took a job at Agriprocessors because his mother became ill. He said he worked from 5:30 p.m. to 6:30 a.m. in a section called "quality control," a job he described as relatively easy that he got because he speaks English.

But he said he and other workers were under constant pressure from supervisors. "They yell at us when we don't hurry up, when we don't work fast enough for them," said Joel R. He and Gilda O. did not want their last names published because they are illegal immigrants and they were not arrested in the raid.

Most of the young immigrants have been released from detention but remain in deportation proceedings. Perras Konrad said she will ask Immigration authorities to grant them special four-year temporary visas, known as U-visas, which are offered to immigrants who assist in law enforcement investigations. Iowa labor officials are considering supporting some of those visa requests, Sheridan-Lucht said.

Agriprocessors executives said they had begun an overhaul of the company's hiring and labor practices, starting with hiring a compliance officer, James G. Martin, a former U.S. attorney in Missouri. In an interview, Martin said the company had contracted an outside firm, the Jacobson Staffing Co., to handle its hiring, and new safety officers, including one former federal work safety inspector.

Mark Lauritsen, a vice president for the International Food and Commercial Workers Union, which has tried to organize the plant, said he remained skeptical. "They are the poster child for how a rogue company can exploit a broken Immigration system," Lauritsen said.

(b) (7)(C)

From: Barcus, Michael - OIG
Sent: Friday, July 25, 2008 1:58 PM
To: [REDACTED] OIG
Subject: Agriprocessors

GazetteOnline

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Article published: Jul 25, 2008

Agriprocessors raid dissected in congressional hearing

WASHINGTON — The government defended itself Thursday against accusations of rough justice in its criminal warrant raid of a kosher meatpacking plant in Postville and the arrest and deportation of hundreds of undocumented workers.

Erik Camayd-Freixas, an interpreter assigned to translate for scores of confused illegal immigrants arrested at the Agriprocessors plant May 12, compared their confinement and processing at a holding area at the National Cattle Congress in Waterloo to "a sort of concentration camp or detention center."

Marcy Forman, the director of investigations at Immigration and Customs Enforcement, said it was "offensive" to compare the Waterloo facility to the concentration camps where the Nazis murdered 6 million Jews during World War II.

"We had food, bedding, milk, television — it was not a concentration camp," she said.

A House Judiciary subcommittee on immigration largely split along party lines on whether the raid by agents of the Justice Department, the Department of Labor and Immigration and Customs Enforcement was necessary.

Congress has been embroiled in a political brawl over immigration law enforcement and reform for years with virtually nothing to show for it except sharp differences and no reform.

Rep. Steve King, 5th District Republican, said the judges at the Waterloo hearings could have rejected the plea agreements accepted by the defendants with legal representation.

"My position is: Enforce our immigration laws," King said.

Rep. Bruce Braley, a lawyer and 1st District Democrat, rejected the comparison to concentration camps.

"I am pleased the focus of the committee is the magnitude of the Postville raid, the human dimension," he said. "I have a huge concern about due process there. I cannot equate the conditions to a concentration camp."

Braley said he had been looking for answers for weeks about Postville — and earlier about an immigration enforcement raid at a Marshalltown processing plant.

"Unfortunately, I have received few good answers" about working conditions, employer compliance and the conviction and future deportation of hundreds of workers.

Braley said immigration control officers have been effective in arresting illegal immigrants and deporting them, but

7/25/2008

that their testimony was vital and may be largely lost in the investigation of Agriprocessors officials.

Most of the 304 Agriprocessors workers were convicted of false identification for employment purposes or the false use of a Social Security number. Two plant supervisors have been charged and have pleaded not guilty to aiding and abetting illegal workers. A third suspect is a fugitive.

Deborah Rhodes, a senior associate deputy attorney general, said an investigation indicated the vast majority of Agriprocessors' more than 1,000 workers were illegal immigrants. She said the 389 people who were originally detained and ultimately the 306 who faced criminal charges were treated humanely, including having access to medical supervision, restrooms and water and a box lunch.

Rhodes said the ratio of about one lawyer per 10 defendants, criticized by Camayd-Freixas, was suitable for the makeshift judicial proceeding criticized by Camayd-Freixas.

"It was not unusual," she said. "Such (decisions) were made by prosecutors at the local office (of the federal judiciary). This was done on a fast track, efficiently."

Rep. Luis Gutierrez, D-Ill., said the immigrants were *railroaded* — either concede to a plea agreement on a lesser charge involving false identification and a minimum jail term or face the more serious charge of identity theft, with a sentence of several years. Deportation would occur in either case.

"That wasn't much of a deal," Gutierrez said.

Camayd-Freixas, whose observations prompted a scathing editorial in the New York Times, said the judicial process was "marred by irregularities at every step of the way" that are reflective of authoritarian rule.

"The heavier charge of aggravated identity theft, used to leverage the plea agreement, was lacking in foundation and never underwent the judicial test of probable cause," he said.

Robert Rigg, an associate professor of law at Drake University, said the assembly-line judicial process amounted to "a compression of time on defense lawyers. They had very little time or resources. Ten clients at a time. Why 10? Why not two? The process ties their hands behind their backs."

(b) (7)(C)

OIG

From: Vanderberg, James - OIG
 Sent: Friday, July 18, 2008 8:24 AM
 To: [REDACTED] OIG
 Importance: High

Des Moines Register

July 17, 2008

Braley: Labor dept., ICE conflict over raid

By JANE NORMAN
 jnorman@dmreg.com

Washington, D.C. — A letter from the U.S. Department of Labor to Rep. Bruce Braley says the agency was not notified in advance about a raid on an Iowa meat packing plant — in direct contradiction to a separate letter to Braley from immigration authorities stating that they “fully coordinated” with labor officials investigating the plant.

Braley, a Waterloo Democrat, released the two letters during a conference call with Iowa reporters today. He called for a “full response” from the two agencies about what went on prior to and during the May 12 raid at Agriprocessors in Postville.

“I am concerned that the raid may have had an impact on the ability of the Department of Labor to conduct a thorough investigation of labor practices within Agriprocessors,” Braley said.

The Department of Labor letter, dated July 3 from Kristine Iverson, assistant secretary for congressional and intergovernmental affairs, says that “the raid occurred without the prior knowledge or participation” of the Wage and Hours Division of the department.

Iverson confirmed in the letter that the division’s Des Moines office had launched an investigation of the Agriprocessors plant earlier this year in connection with possible violations of federal labor law.

No advance notice of the raid was given to any portion of the department, the letter says. “In fact, after learning of the raid from news reports, the Wage and Hours Division’s district office intervened to ensure that workers received their last paychecks,” she wrote.

She said that the department also found out after the raid that the Office of Inspector General for the Department of Labor — an oversight agency that is separate from the department — may have participated.

Iverson said that the worksite enforcement action “changes the complexion” of the labor probe but “it should not prevent the Wage and Hours Division from completing its investigation.”

A separate letter was sent to Braley from Jamie E. Zuieback, director of the Office of Congressional Relations for Immigration and Customs Enforcement, on July 15. In it, Zuieback states that ICE “fully coordinated its activities with other federal agencies, including the Department of Labor.”

Zuieback adds that “DOL agents were present at the Agriprocessors facility during the execution of the search warrant and interviewed aliens during the operation as they deemed necessary.”

7/18/2008

A statement issued by Immigration and Customs Enforcement later this evening appeared to indicate that there may have been some confusion between the Department of Labor and the Office of Inspector General of the Department of Labor.

Tim Counts, a spokesman for Immigration Customs and Enforcement, issued a statement saying that during the Agriprocessors investigation, "we worked with the Department of Labor's Office of Inspector General" and that agency participated in the operation on May 12.

"We will continue to work with Rep. Braley and his staff to respond to questions and to provide information and clarification on this matter," said Counts. He said that his agency "conducts all investigations and enforcement actions in full accordance with policy and procedure."

According to its Web site, the inspector general conducts audits and evaluations to review the effectiveness, efficiency, economy, and integrity of all DOL programs and operations.

A spokesman for the DOL echoed the contents of the letter sent to Braley and stressed that the agency's investigation is continuing.

More than 300 Agriprocessors workers were arrested on criminal and immigration charges in the worksite enforcement action.

Violations of workplace and child labor regulations at the plant have been alleged by the government in its search warrant and Iowa state officials earlier had cited the company for not complying with safety regulations for workers.

A union trying to organize the Postville plant, a national Hispanic advocacy group and members of Congress have raised questions about whether the raid harmed the labor violation investigation. Braley wrote a series of letters beginning May 15 to the DOL, ICE and the Department of Justice, asking for information on the labor investigation and about coordination between the agencies.

Braley now has written back to Julie Myers, assistant secretary at ICE, pointing out her agency's contradiction with the Department of Labor letter.

He asked for the dates of any communication between immigration and labor officials prior to the raid and the content of it, including transcripts.

Agriprocessors has a "dismal" track record on workplace safety and compliance, Braley said. "While upholding immigration law is important, so is ensuring workplace safety," he wrote. "One should not have to come at the expense of the other."

(b) (7)(C) - OIG

From: Barcus, Michael - OIG
 Sent: Wednesday, July 23, 2008 8:57 AM
 To: [REDACTED] OIG; Vanderberg, James - OIG
 Subject: Agriprocessors Article

Interesting article from last week.

June 18, 2008

More Heat Over Agriprocessors

Outrage over the ICE raid in Postville, and suspicion over letting Agriprocessors off the hook for labor laws continues. From America's Voice:

Congressional Leaders Call for Answers from Agriprocessors

Immigration Raids Must Not Prevent Enforcement of Labor Laws

Washington, DC – Leading Members of Congress are demanding that the Administration answer key questions about the largest worksite immigration raid in U.S. history. Letters to the U.S. Department of Labor and other agencies from Senator Tom Harkin (D-IA) and Representatives Bruce Braley (D-IA), Phil Hare (D-IL), George Miller (D-CA), Jerrold Nadler (D-NY), Jan Schakowsky (D-IL), and Lynn Woolsey (D-CA) seek answers from the Bush Administration about its handling of the May 12th immigration raid at the Agriprocessors meat-packing plant in Postville, IA. During the raid, more than 300 immigrant workers were rounded up, charged with crimes, and processed for deportation. Despite serious evidence that the company itself violated multiple labor, immigration, and criminal laws, no Agriprocessors managers or owners have been charged with an offense.

Congressional leaders are concerned that the fast-track deportation of immigrant witnesses will make it impossible for the government to bring appropriate charges against this unscrupulous employer. They are also concerned that an ongoing child labor investigation was disrupted by the immigration raid, and that the Administration has prioritized immigration enforcement against the worker over labor law enforcement against abusive employers.

Senator Harkin's letter to Secretary Elaine Chao of the U.S. Department of Labor (DOL) and Secretary Michael Chertoff of the U.S. Department of Homeland Security (DHS) called for both agencies to investigate "all possible illegal activities committed by Agriprocessors." Representative Bruce Braley sent a letter to Secretary Chao, Immigration and Customs Enforcement (ICE) Assistant Secretary Julie Myers, and the U.S. Attorney for the Northern District of Iowa, Matt Dummermuth, asking "whether ICE communicated with DOL prior to the enforcement action," and inquiring as to the status of investigations into federal labor law violations at the Postville plant. In a guest column in the Des Moines Register, Rep. Braley also highlighted the way the Bush Administration has selectively enforced immigration laws: "[A]s each day passes without even a hint of a probe into Agriprocessors' actions, Iowans grow more anxious that an employer who apparently has violated laws concerning workplace safety, child labor, food safety, the environment and immigration is going to get away without even a slap on the wrist."

Representative George Miller, Chairman of the House Committee on Education and Labor, and Representative Lynn Woolsey, Chairman of its Subcommittee on Workforce Protections, also sent a letter to Secretary Chao expressing concern about "the impact this raid will have on labor law enforcement and whether the Department's investigation into child labor violations will be disrupted or compromised in any way because of this raid." A letter to Secretary Chao from Representatives Phil Hare (D-IL), Jerrold Nadler (D-NY), and Jan Schakowsky (D-IL) cited the raid's potential "chilling effect on existing workers who could raise concerns about violations and uncover other unlawful acts in their plants." Their letter also stated that "DOL investigations must take precedence to ICE's processing of the workers detained from the Agriprocessors raid." And at a June 4 hearing on ICE's incompetence in running its immigration jails, House Judiciary Chairman John Conyers (D-MI) told ICE Assistant Secretary Julie Myers that he thought they needed a Congressional hearing on the Administration's treatment of Agriprocessors.

7/23/2008

bh



Posted on Tue, Jun. 10, 2008

Immigration arrests may boost kosher meat prices

By ELLEN SIMON
The Associated Press

Kosher meat may grow even pricier this summer, following the arrests of nearly half the work force in an immigration raid at the nation's largest kosher meat processor.

Any price increases would affect not only observant Jews, but also Muslims who often buy kosher meat because it meets halal guidelines, as well as people who buy kosher food for health and safety reasons — and who make up the majority of the \$12.5 billion market. A rise would add to the already steep climb in kosher food prices over the past year.

Immigration and Customs Enforcement agents on May 12 raided Agriprocessors Inc.'s plant in Postville, Iowa, arresting nearly 400 workers on immigration, identity theft and other charges. The company produces about half the country's kosher beef and roughly 40 percent of its kosher chicken. The plant was temporarily shut by the raid, but has since reopened. The arrests were quickly followed by almost 300 plea deals by workers, most of whom were charged with using false identification.

If the company can maintain production at the plant, its prices may still rise as it hires documented workers after the largest immigration raid in history, said Joe Regenstein, a food sciences professor at **Cornell University**.

"I suspect prices will rise disproportionately as the real costs of production will have to get factored in," Regenstein said. "The particular competitive advantage of Agri is likely to be lost. If they end up in further trouble, there could be a shortage of (kosher) meat sometime over the summer."

Agriprocessors said Friday it hired Jim Martin, a former U.S. attorney for the Eastern District of Missouri, as its outside corporate compliance officer.

"Agriprocessors' 800 jobs are important to Postville and northern Iowa, along with the observant Jewish community across the country that relies on them for their kosher meat and poultry," Martin said. "Agriprocessors can meet the needs of those who depend on the company and operate in compliance with all laws, and I intend to see that happen."

Even before the raid, Yehuda Shain at the **Kosher Consumers Union** said there was a bigger spike in kosher meat prices this year than in the past — and he expects more to come. While no separate data on kosher food inflation was available, overall meat prices increased nearly 4 percent in 2007, according to the **U.S. Department of Agriculture**.

Rising feed and fuel prices, the same factors pushing overall food prices higher, are adding to kosher inflation — but there are also challenges specific to kosher food.

One reason kosher meat costs more is that producing it is more labor-intensive. The laws of keeping kosher, outlined in the Jewish Bible, are extensive. A few: Animals' feed can't include animal byproducts. Animals must be killed by a trained kosher slaughterer, under rabbinical supervision, and handled in a separate plant from nonkosher meat. People who keep kosher are forbidden to eat blood, so the meat is soaked and salted to remove it. Kosher Jews from Eastern Europe don't eat the back half of the cow.

Kosher companies are also smaller than many other meat producers, so they lack economies of scale in marketing and logistics, Regenstein said.

"There are a number of factors that lead to higher prices — the same types of questions can be asked of folks selling natural meat at **Whole Foods** versus buying **Tyson's** products at **Wal-Mart**," he said.

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OIG case

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Thursday 5 June. 2008

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Immigration raid spurs calls for action vs. company owners

By DAVID PITT, AP Business Writer

June 03, 2008

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TV Roundup

DES MOINES, Iowa - After the biggest immigration raid in U.S. history, hundreds of workers have been sentenced but not one company official as yet faces any charges - something critics say is typical of a federal government that is tough on employees but easy on owners.

Worker advocates and lawmakers say the fact that nearly 400 workers were arrested in the May 12 raid at the Agriprocessors Inc. plant in Postville - or more than one-third of the total number of employees - proves that company officials must have known they were hiring illegal immigrants.

"Until we enforce our immigration laws equally against both employers and employees who break the law, we will continue to have a problem with immigration," said U.S. Rep. Bruce Braley, an Iowa Democrat whose district borders Postville.

Such raids are designed to get headlines and make it appear that the federal government is cracking down on illegal immigration, said Frank Sharry, executive director of the immigration reform group America's Voice. But he says even those who think enforcement is the answer can't seriously believe the 12 million illegal immigrants in the U.S. can be arrested and deported.

"Even if you wanted to pursue an imbalanced enforcement-first strategy, the only thoughtful way to do it would be to go after employers, make examples of them and try to scare other employers into compliance," he said. "They're not doing that."

The owner of the Postville plant, Aaron Rubashkin, has said that the company is conducting its own investigation "into the circumstances which led to the recent work site enforcement action, and is fully cooperating with the government." He said the company could not respond to specific allegations due to pending legal issues.

Court documents filed by an Immigration and Customs Enforcement agent prior to the raid at the Postville plant indicate that authorities believed company supervisors were violating a number of federal laws including harboring illegal immigrants. An application and affidavit for search warrant alleged that:

- Based on 2007 fourth-quarter payroll reports, about 78 percent of Agriprocessors' 968 workers were using false or fraudulent Social Security

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numbers in connection with their employment.

– Agriprocessors was notified by the Social Security Administration in five separate letters of 500 Social Security number discrepancies for each tax year from 2000 to 2005.

– A Department of Transportation investigation found that an Agriprocessors supervisor was forcing workers to buy cars from him and allegedly registered the cars under falsified identities. An investigator found at least 200 cars were bought in this manner.

– The Iowa Department of Labor uncovered workplace safety problems including 39 citations since last October. Fines of around \$182,000 were reduced on Tuesday to \$42,750 after the company agreed to correct some of the violations, which included improper storage and handling of hazardous chemicals and inadequate training in the use of respirators and handling of blood-borne pathogens.

– Allegations of child labor law violations are under investigation by the state. The investigation was initially halted by the ICE raid, but have resumed, said Iowa Workforce Development spokeswoman Kerry Koonce. If confirmed, the violations could be prosecuted as misdemeanors under state law.

– Occupational Safety and Health Administration logs show records of incidents that led to five amputations, dozens of reports of broken bones, eye injuries and hearing loss at the plant between 2001 and 2006.

Immigration officials said the 389 arrests at the plant meant it was the largest single-site immigration raid in U.S. history. Of those arrested, 297 pleaded guilty and were sentenced. The guilty pleas included use of false identification documents to obtain employment, false use of a Social Security number or cards and unlawful re-entry into the United States.

About 60 of the workers taken into custody were released for humanitarian reasons and do not face criminal charges, while 20 others were detained on immigration violations only and face deportation proceedings, said Bob Teig, spokesman for the U.S. attorney's office in the Iowa's northern district. Five other defendants did not enter pleas and have cases pending in U.S. District Court in Cedar Rapids.

The large number of people arrested, coupled with the allegations against Agriprocessors, has led some to conclude that the company is at least as culpable as the workers.

"I'll be interested to see if federal authorities will be bringing any charges against the employer," Braley said in a telephone interview.

Braley has questioned the cost of the Postville raid as well as an operation at Swift & Co. plants in Marshalltown and five other Midwest cities in 2006. Although federal agents arrested about 1,300 workers in raids at the Swift plants, Braley noted that no top company officials were charged.

Immigration and Customs Enforcement officials told Braley they didn't have a cost estimate for the Swift raids.

Although it primarily has been Democrats who have questioned why few company officials are charged in immigration raids, the Republican congressman who represents Postville also expressed disappointment about how that operation was handled.

James Carstensen, a spokesman for Rep. Tom Latham, said he views the raid as a blow to families seeking a better life and for the community, which is suffering economically.



Case No. 55-3963-0006-PCJ

June 2, 2008

SA (b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)
(b) (7)(C)(b) (7)(C)(b) (7)(C)(b) (7)(C)

MEMO TO FILE

On June 2, 2008, I contacted ICE SA [REDACTED] and AUSA Kandi Wilcox for case status update. The following topics were discussed.

- ICE Dock-X personnel in Washington D.C. are still uploading documents recovered during the search warrant of Agriprocessors, Inc. on May 12, 2008.
- ICE expects to conduct a proffer meeting with Agriprocessors employee [REDACTED] [REDACTED] may have information regarding potential Visa Fraud subject [REDACTED]
- The US Attorney's office plans to meet with USDOL, Wage and Hour personnel on June 2, 2008 to discuss child labor issues.

Report of Interview

U.S. Department of Lab
Office of Inspector General
Office of Investigations



Page 1 of 1

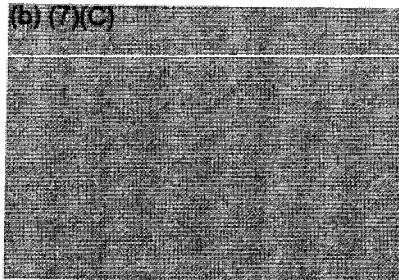
OIG Form 103 (OI - 1/98)

Investigation on: 5/12/2008	At: Kansas City	File: 55-3963-0006-PC
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By: Michael Barcus *Michael Barcus*

Date Prepared: 5/16/2008

Person Interviewed:
Address:



Date of Birth:
Telephone Number:

[Redacted] was interviewed by ASAC Michael Barcus, USDOL, OIG, on the street near the main entrance drive to Agriprocessors, Inc., in Postville, Iowa. [Redacted] was at Agriprocessors and was being detained by ICE agents. It was my understanding that [Redacted] had brought some identification documents for his son. When I spoke with [Redacted] he said that the documents had already been given to someone else to take to his son.

[Redacted] advised that he works at Agriprocessors. He is a foreign national from the Republic of Georgia. He is married to a U.S. citizen. He has been in the United States for 10 years and has worked at Agriprocessors for 5 five years. He works in the "kitchen" making hotdogs. He is paid \$7.25 per hour.

May 16, 2008 3:49:26 PM

Printed By 3365FMCG from M38510001

Received Time:

May 16, 2008 15:42:20

Source ORI:

IAOLN0000

Summary:

NO: CIN-079EB7221

View Message Details

DR. IAOLN0000

12:44 05/16/2008 82441

12:44 05/16/2008 96844 ILDOL01J0,NSNGR

*MSG0049739

TEXT

NAME: [REDACTED]

RESIDENCE ADDRESS: [REDACTED]

COUNTY: Allamakee

LOCATION COUNTY: Allamakee

PRIMARY CONTACT ADDRESS: [REDACTED]

DATE OF BIRTH: [REDACTED]

SSN: [REDACTED]

HEIGHT: [REDACTED]

WEIGHT: [REDACTED]

EYE COLOR: [REDACTED]

GENDER: [REDACTED]

RACE: [REDACTED]

MEDICAL DETAILS: false

*** DRIVER LICENSE DETAILS ***

DRIVER AUTHORIZATION ID: 079EB7221

JURISDICTION AUTHORITY CODE: IA

ISSUE DATE: 2008-04-21

EXPIRATION DATE: 2010-10-20

DRIVER LICENSE NON-COMMERCIAL CLASS: Non-Commercial Vehicle

DRIVER LICENSE NON-COMMERCIAL CLASS CODE: C

DRIVER LICENSE NON-COMMERCIAL STATUS: Valid

*** DRIVER ALIASES ***

DRIVER AUTHORIZATION ID: [REDACTED]

JURISDICTION AUTHORITY CODE: IA

MRI: 48741 IN: NSNGR 3781 AT 16MAY2008 15:42:20

OUT: M38510001 20 AT 16MAY2008 15:42:20

The New York Times

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May 24, 2008

270 Illegal Immigrants Sent to Prison in Federal Push

By JULIA PRESTON

WATERLOO, Iowa — In temporary courtrooms at a fairgrounds here, 270 illegal immigrants were sentenced this week to five months in prison for working at a meatpacking plant with false documents.

The prosecutions, which ended Friday, signal a sharp escalation in the Bush administration's crackdown on illegal workers, with prosecutors bringing tough federal criminal charges against most of the immigrants arrested in a May 12 raid. Until now, unauthorized workers have generally been detained by immigration officials for civil violations and rapidly deported.

The convicted immigrants were among 389 workers detained at the Agriprocessors Inc. plant in nearby Postville in a raid that federal officials called the largest criminal enforcement operation ever carried out by immigration authorities at a workplace.

Matt M. Dummermuth, the United States attorney for northern Iowa, who oversaw the prosecutions, called the operation an "astonishing success."

Claude Arnold, a special agent in charge of investigations for Immigration and Customs Enforcement, said it showed that federal officials were "committed to enforcing the nation's immigration laws in the workplace to maintain the integrity of the immigration system."

The unusually swift proceedings, in which 297 immigrants pleaded guilty and were sentenced in four days, were criticized by criminal defense lawyers, who warned of violations of due process. Twenty-seven immigrants received probation. The American Immigration Lawyers Association protested that the workers had been denied meetings with immigration lawyers and that their claims under immigration law had been swept aside in unusual and speedy plea agreements.

The illegal immigrants, most from Guatemala, filed into the courtrooms in groups of 10, their hands and feet shackled. One by one, they entered guilty pleas through a Spanish interpreter, admitting they had taken jobs using fraudulent Social Security cards or immigration documents. Moments later, they moved to another courtroom for sentencing.

The pleas were part of a deal worked out with prosecutors to avoid even more serious charges. Most immigrants agreed to immediate deportation after they serve five months in prison.

The hearings took place on the grounds of the National Cattle Congress in Waterloo, in mobile trailers and in a dance hall modified with black curtains, beginning at 8 a.m. and continuing several nights until 10. On Wednesday alone, 94 immigrants pleaded guilty and were sentenced, the most sentences in a single day in this northern Iowa district, according to Robert L. Phelps, the clerk of court.

Mr. Arnold, the immigration agent, said the criticism of the proceedings was "the usual spate of false allegations and baseless rumors."

The large number of criminal cases was remarkable because immigration violations generally fall under civil statutes. Until now, relatively few immigrants caught in raids have been charged with federal crimes like identity theft or document fraud.

"To my knowledge, the magnitude of these indictments is completely unprecedented," said Juliet Stumpf, an immigration law professor at Lewis & Clark Law School in Portland, Ore., who was formerly a senior civil rights lawyer at the Justice Department. "It's the reliance on criminal process here as part of an immigration enforcement action that takes this out of the ordinary, a startling intensification of the criminalization of immigration law."

Defense lawyers, who were appointed by the court, said most of the immigrants were ready to accept the plea deals because of the hard bargain driven by the prosecutors.

If the immigrants did not plead guilty, Mr. Dummermuth said he would try them on felony identity theft charges that carry a mandatory two-year minimum jail sentence. In many cases, court documents show, the immigrants were working under real Social Security numbers or immigration visas, known as green cards, that belonged to other people.

All but a handful of the workers here had no criminal record, court documents showed.

"My family is worried in Guatemala," one defendant, Erick Tajtaj, entreated the federal district judge who sentenced him, Mark W. Bennett. "I ask that you deport us as soon as possible, that you do us that kindness so we can be together again with our families."

No charges have been brought against managers or owners at Agriprocessors, but there were indications that prosecutors were also preparing a case against the company. In pleading guilty, immigrants had to agree to cooperate with any investigation.

Chaim Abrahams, a representative of Agriprocessors, said in a statement that he could not comment about specific accusations but that the company was cooperating with the government.

Aaron Rubashkin, the owner of Agriprocessors, announced Friday that he had begun a search to replace his son Sholom as the chief executive of the company. Agriprocessors is the country's largest producer of kosher meat, sold under brands like Aaron's Best. The plant is in Postville, a farmland town about 70 miles northeast of Waterloo. Normally it employs about 800 workers, and in recent years the majority of them have come from rural Guatemala.

Since 2004, the plant has faced repeated sanctions for environmental and worker safety violations. It was the focus of a 2006 exposé in *The Jewish Daily Forward* and a commission of inquiry that year by Conservative Jewish leaders.

In Postville, workers from the plant, still feeling aftershocks from the raid, said conditions there were often harsh. In interviews, they said they were often required to work overtime and night shifts, sometimes up to 14 hours a day, but were not consistently paid for the overtime.

"We knew what time we would start work but we did not know what time we would finish," said Élida, 29, a Guatemalan who was arrested in the raid and then released to care for her two children. She asked that her last name not be published because she is in this country illegally.

A 16-year-old Guatemalan girl, who asked to be identified only as G.O. because she is illegal and a minor and was not involved in the raid, said she had been working the night shift plucking chickens. "When you start, you can't stay awake," she said. "But after a while you get used to it."

The workers said that supervisors and managers were well aware that the immigrants were working under false documents.

Defense lawyers, who each agreed to represent as many as 30 immigrants, said they were satisfied that they had sufficient time to question them and prepare their cases. But some lawyers said they were troubled by the severity of the charges.

At one sentencing hearing, David Nadler, a defense lawyer, said he was "honored to represent such good and brave people," saying the immigrants' only purpose had been to provide for their families in Guatemala.

"I want the court to know that these people are the kings of family values," Mr. Nadler said.

Judge Bennett appeared moved by Mr. Nadler's remarks. "I don't doubt for a moment that you are good, hard-working people who have done what you did to help your families," Judge Bennett told the immigrants. "Unfortunately for you, you committed a violation of federal law."

After the hearing, Mr. Nadler said the plea agreements were the best deal available for his clients. But he was dismayed that prosecutors had denied them probation and insisted the immigrants serve prison time and agree to a rarely used judicial order for immediate deportation upon their release, signing away their rights to go to immigration court.

"That's not the defense of justice," Mr. Nadler said. "That's just politics."

Christopher Clausen, a lawyer who represented 21 Guatemalans, said he was certain they all understood their options and rights. Mainly they wanted to get home to Guatemala as quickly as possible, he said.

"The government is not bashful about the fact that they are trying to send a message," Mr. Clausen said, "that if you get caught working illegally here you will pay a criminal penalty."

Robert Rigg, a Drake University law professor who is president of the Iowa Association of Criminal Defense Lawyers, said his group was not consulted when prosecutors and court officials began to make plans, starting in December, for the mass proceedings.

"You really are force feeding the system just to churn these people out," Mr. Rigg said.

Kathleen Campbell Walker, president of the American Immigration Lawyers Association, said that intricate issues could arise in some cases, for example where immigrants had children and spouses who were legal residents or United States citizens. Those issues "could not be even cursorily addressed in the time frame being forced upon these individuals and their overburdened counsel."

Linda R. Reade, the chief judge who approved the emergency court setup, said she was confident there had been no rush to justice. In an interview, Judge Reade said prosecutors had organized the immigrants' detention to make it easy for their lawyers to meet with them. The prosecutors, she said, "have tried to be fair in their charging."

The immigration lawyers, Judge Reade said, "do not understand the federal criminal process as it relates to immigration charges."

Case No. 55-3963-0006-PCJ

March 3, 2009

SA [REDACTED]

MEMO TO FILE

Case file serial #31 is a copy of the Wage & Hour Division case file on Agriprocessors. It is too large to upload into IMIS but will be contained in the paper case file as Item #31.

30 pages

Referred to Wage Hour

53 pages

Referred to Wage Hour

U.S. Department of Labor

Office of Inspector General
230 S. Dearborn St., Room 756
Chicago, IL 60604



May 6, 2008

MEMORANDUM FOR: SHIRLEY GARDNER
Regional Administrator
Wage and Hour Division

FROM: JAMES VANDERBERG
Special Agent-in-Charge
Chicago Region

SUBJECT: File Request

Pursuant to an official OIG criminal investigation, please provide this office with a copy of any and all investigative files or complaints concerning Agriprocessors, Postville, Iowa. A copy of the file(s) can be sent to SA [REDACTED] U.S. Department of Labor OIG, 1222 Spruce Street, Suite 2.102F, St. Louis, MO 63103, telephone Number [REDACTED]

If there are any questions, I can be reached at 312-886-6622. Thank you for your cooperation in this matter.

88 pages

Referred to Wage Hour

U.S. Department of Labor

Office of Inspector General
230 S. Dearborn St., Room 756
Chicago, IL 60604



May 6, 2008

MEMORANDUM FOR: SHIRLEY GARDNER
Regional Administrator
Wage and Hour Division

FROM: JAMES VANDERBERG
Special Agent-in-Charge
Chicago Region

SUBJECT: File Request

Pursuant to an official OIG criminal investigation, please provide this office with a copy of any and all investigative files or complaints concerning Agriprocessors, Postville, Iowa. A copy of the file(s) can be sent to SA (b) (7)(C) U.S. Department of Labor OIG, 1222 Spruce Street, Suite 2.102F, St. Louis, MO 63103, telephone Number [REDACTED].

If there are any questions, I can be reached at 312-886-6622. Thank you for your cooperation in this matter.

40 pages

Referred to Wage Hour

Case No. 55-3963-00064PPT

May 22, 2008

SA

(b) (7)(C)

MEMO TO FILE

On May 20, 2008, I met with ICE Special Agents [REDACTED] and [REDACTED] at the National Cattle Congress Grounds in Waterloo, Iowa.

A search of ICE databases revealed that the following employees of Agriprocessors, Inc have I-129 files and likely obtained H1-B visas to work at Agriprocessors, Inc:

(b) (7)(C)

The following employees of Agriprocessors, Inc previously filed applications for Permanent visas:

[REDACTED]

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on:	May 13, 2008	At:	Postville, IA	File:	55-3963-0006-PCJ
By: SA	(b) (7)(C)				Date Prepared: May 15, 2008

Person Interviewed: [REDACTED]
Occupation: [REDACTED]
DOB: 1/9/1984
Work Address: Agriprocessors Inc., 220 West Street, Postville, IA 52162
Home Phone: [REDACTED]
Date of Interview: May 13, 2008
Place of Interview: FOB, Waterloo, IA
Interviewers: Special Agent [REDACTED] U.S. DOL OIG-OLRFI

On May 13, 2008, [REDACTED] a native of [REDACTED] was interviewed at the FOB in Waterloo, IA. [REDACTED] was read the Miranda Warning in both English and Spanish and voluntarily agreed to speak with agents. [REDACTED] signed the Miranda Warning indicating his willingness to be interviewed, which is attached.

[REDACTED] started working at Agriprocessors Inc. (Agriprocessors) in September 2002. [REDACTED] stated that he had provided Agriprocessors with false identification documentation at time he applied for the position. [REDACTED] stated that the documents were obviously false. [REDACTED] LNU, a Human Resources (HR) employee, had told [REDACTED] on occasion that he had a "bad" Social Security number (SSN).

[REDACTED] was employed as a forklift operator. Initially, [REDACTED] made approximately \$6.25 per hour; however, his wages had increased to \$8.25 per hour. [REDACTED] worked approximately 60 - 70 hours per week.

[REDACTED] told Agriprocessors that he wanted health insurance but never received any paperwork to apply. [REDACTED] believed that weekly deductions were being made from his paycheck for health insurance.

[REDACTED] has two daughters, ages two and ten months, by his girlfriend [REDACTED] who is a U.S. citizen. [REDACTED] was unable to spell [REDACTED] last name but provided the number above and consented to agents contacting [REDACTED] to obtain copies of payroll stubs to review deductions that were made from [REDACTED] pay. [REDACTED] did not recall having using insurance to pay for the birth of his daughters.

Immediately following the interview, OLRFI SA [REDACTED] left a message for [REDACTED] at the number listed above.

On May 13, 2008, at approximately 8 PM, [REDACTED] contacted SA [REDACTED] and identified herself as [REDACTED] girlfriend. [REDACTED] agreed to mail a copy of [REDACTED] pay stub to OLRFI and was provided with the address to the St. Louis office. [REDACTED] stated that [REDACTED] had previously had health insurance but no longer had it. [REDACTED] stated that the pay stub did not indicate any deductions for health insurance. [REDACTED] was concerned that she would not receive [REDACTED] last check for employment from Agriprocessors and was informed to contact the U.S. Department of Labor Wage and Hour Division should that occur.

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Investigation on:	May 12, 2008	At:	Postville, IA	File:	55-3963-0006-PCJ
By: SA	[Redacted]				Date Prepared: May 15, 2008

Person Interviewed: [Redacted]
Occupation: [Redacted]
DOB: 3/17/1959
Work Address: Agriprocessors Inc., 220 West Street, Postville, IA 52162
Home Address: 464 W. Williams Street, Postville, IA 52162
Home Phone: (563) 864-3599
Date of Interview: May 12, 2008
Place of Interview: Agriprocessors Inc., 220 West Street, Postville, IA 52162
Interviewers: Special Agent [Redacted] U.S. DOL OIG-OLRFI

On May 12, 2008, [Redacted] was interviewed at Agriprocessors Inc (Agriprocessors) regarding her wages and benefits received while employed at Agriprocessors.

[Redacted] her husband [Redacted] and daughter traveled from [Redacted] and entered the United States (US) on visitors visa's in 1995. [Redacted] stated that all three remained in the US as visa overstays. In 1999, [Redacted] applied for and received a Social Security (SSN) card.

[Redacted] and [Redacted] both entered into employment at Agriprocessors in 1999. [Redacted] provided her SSN card to Agriprocessors during the application process. [Redacted] listed her true name on the employment application.

[Redacted] was employed by Agriprocessors for approximately one year while on a visitor's visa prior to receiving her permanent residency.

[Redacted] and [Redacted] submitted the necessary paperwork to attempt to amend their immigration status. Masnyk won the immigration lottery to receive permanent citizenship during the period of adjudication.

In 2005, [Redacted] died as a result of an automobile accident.

[Redacted] purchased the family health insurance and dental plans. [Redacted] believed that \$49.00 was deducted from her paycheck weekly. [Redacted] did receive an insurance booklet detailing the plan. [Redacted] believed SISKO to be the name of the health insurance company but could not be sure. The plan had a \$500.00 annual deductible.

[Redacted] was not offered a retirement or 401k investment plan.

[Redacted] worked in the kitchen as a supervisor and was paid \$725.00 monthly salary. [Redacted] believed that she had been correctly paid while employed at Agriprocessors.

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on:	May 12, 2008	At:	Postville, Iowa	File:	55-3963-0006-PC-J
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By: (b) (7)(C)

Date Prepared: May 15, 2008

PERSON'S INTERVIEWED:

[REDACTED]

DOB: [REDACTED]

SSN: [REDACTED]

[REDACTED]

INTERVIEWED BY:

[REDACTED]

Special Agent
USDOL/OIG/OLRFI
Kansas City, Missouri

[REDACTED]

Special Agent
USDOL/OIG/OLRFI
Kansas City, Missouri

PLACE OF INTERVIEW

Agriprocessors
Postville, Iowa

On May 12, 2008, [REDACTED] was interviewed at Agriprocessors. [REDACTED] voluntarily agreed to be interviewed by agents regarding his visas to enter the United States. [REDACTED] was provided with the identifications of the interviewing agents. [REDACTED] provided the following information:

[REDACTED] was born in [REDACTED] of the former Soviet Union. [REDACTED] father is married to a United States citizen (USC), and he came to the US with his father. While here, the company filed paperwork for permanent residency for Samkharadze after he had been employed for approximately one month working in [REDACTED] making \$7.00/hr.. His stepmother helped him fill out the paperwork. [REDACTED] did not have to pay the company for his permanent application.

[REDACTED] was offered medical insurance when he was hired, but he declined and signed a waiver.

The interview concluded.

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 2

OIG Form 103 (OI - 1/98)

Investigation on:	May 12, 2008	At:	Postville, Iowa	File:	55-3963-0006-PC-J
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By: (b) (7)(C)

Date Prepared: May 15, 2008

PERSON'S INTERVIEWED:

DOB: [REDACTED]
SSN: [REDACTED]

INTERVIEWED BY:

[REDACTED]
Special Agent
USDOL/OIG/OLRFI
Kansas City, Missouri

[REDACTED]
Special Agent
USDOL/OIG/OLRFI
Kansas City, Missouri

PLACE OF INTERVIEW

Agriprocessors
Postville, Iowa

On May 12, 2008, [REDACTED] was interviewed at Agriprocessors. [REDACTED] voluntarily agreed to be interviewed by agents regarding his visas to enter the United States. [REDACTED] was provided with the identifications of the interviewing agents. [REDACTED] provided the following information:

[REDACTED] was born in the [REDACTED]. He came to the United States under a B-1 visa and worked at Agriprocessors. [REDACTED] heard about the company through some friends of his wife who also worked for Agriprocessors. [REDACTED] first position was working in meat production.

While working for the company, [REDACTED] said he filed paperwork for the H1B visa and paid approximately \$3,000 to a contracted company attorney for assistance with the paperwork. The \$3000 covered the fees for the applications for himself, his wife, and his child. [REDACTED] then clarified that he came to the US on B-1 Visa, and in 2001, he had received a H1B visa and was still working for Agriprocessors. He said that at that time he was still in school and was earning approximately \$9.50/hr. While he was working under the H1B visa he was working in [REDACTED] but then changed over to a [REDACTED] position.

While working in the [REDACTED] position, Agriprocessors filed paperwork for [REDACTED] for permanent status. The job listed on the permanent visa application was for a [REDACTED] position, the position that [REDACTED] already held. The application was approved and [REDACTED] started making approximately

\$16.50/hr or \$42k/yr. [REDACTED] updated his permanent resident alien card approximately one month ago.

[REDACTED] said that he was not a member of the Union, and that the company told him it was his choice to join or not. [REDACTED] said that he did have medical insurance through the company, and that approximately \$50/wk is withheld from his paycheck to cover insurance for himself and his family. [REDACTED] said that he signed up when he started working for the company. He said that he received a booklet on the insurance and [REDACTED] LNU in HR helped him fill out the paperwork.

The interview concluded.



Investigation on:	May 12, 2008	At:	Waterloo, Iowa	File:	55-3963-0006-PC-J
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By: (b) (7)(C)

Date Prepared: May 15, 2008

PERSON'S INTERVIEWED:

[REDACTED]
DOB: [REDACTED]
Postville, Iowa

INTERVIEWED BY:

[REDACTED]
Special Agent
USDOL/OIG/OLRFI
Kansas City, Missouri

[REDACTED]
Special Agent
USDOL/OIG/OLRFI
St. Louis, Missouri

ALSO PRESENT:

[REDACTED]
DOB: [REDACTED]
TX ID: [REDACTED]

PLACE OF INTERVIEW

FOB
Waterloo Iowa

On May 12, 2008, [REDACTED] was interviewed at the FOB in Waterloo, IA. [REDACTED] was interviewed in the presence of his mother [REDACTED]. [REDACTED] was read the Miranda Warning in both English and Spanish. Both [REDACTED] and his mother agreed that [REDACTED] would voluntarily speak with agents and signed the Miranda Warning indicating his willingness to be interviewed. The signed warning is attached to this interview report.

[REDACTED] was born in San Luis Portacire, Mexico and came to the United States at age 3. Until approximately four months ago, [REDACTED] was living in Forward, Texas.

[REDACTED] started working at Agriprocessors (Plant) approximately two months ago. He said that a friend told him to go to the Plant and talk to a Hispanic woman named [REDACTED]. [REDACTED] was a HR representative who is responsible for hiring Spanish speaking employees. [REDACTED] helps the Hispanic employees fill out the applications and makes group orientation presentations to the Hispanic workers. [REDACTED] used a fraudulent Resident Alien card that he received from his Uncle to apply for the job at the Plant. [REDACTED] said that the card looked fake, but he was not questioned about it because they needed people to work at the Plant. [REDACTED] said that he did not provide a Social Security Card.

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ROI [REDACTED]

but just made up a number and filled it in on the application. [REDACTED] was never told that there may be a problem with his Social Security Number.

[REDACTED] was paid weekly for working in the beef kill area. He started out earning \$7.25/hr, but shortly after starting, received a raise earning \$7.50/hr. [REDACTED] worked approximately 55-58 hours a week. [REDACTED] received straight pay of \$7.50 per hour for the entire 55-58 hours; he did not receive any overtime pay. [REDACTED] training consisted of being showed a couple of times how to cut the chest from the front of the cow with a chain saw. The person then watched [REDACTED] do it a couple of times and left him to work.

[REDACTED] said that his Resident Alien card said that he was nineteen years old, but that everyone knew he was seventeen. [REDACTED] said there were other juveniles working in the beef kill area. He said that no one from the company ever questioned his age or his legal status. [REDACTED] supervisor, Carlos LNU (a USC) never asked about his age. [REDACTED] said that he never spoke to any of the Rabbis.

[REDACTED] said that he was offered health insurance, but he did not want it, and he signed a waiver. [REDACTED] said that he thought they were withholding taxes from his paycheck, but was not entirely sure. [REDACTED] did not know anything about a 401(k) plan or being part of a union.

The interview concluded.

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 5/12/08	At: Postville, Iowa	File: 55-3963-0006-PC
By: SA [REDACTED] (b) (7)(C)	Date Prepared: 5/15/08	

Postville Medical Clinic
124 West Green Street
Postville, Iowa 52162
Telephone: 563-864-7221

On May 12, 2008 at approximately 2:50 pm USDOL, OIG Special Agents [REDACTED] and [REDACTED] interviewed [REDACTED] and [REDACTED] at their medical offices in Postville, Iowa. The [REDACTED] were advised of the identity of the agents and they voluntarily provided the following information.

[REDACTED] stated that he would not consider himself to be Agriprocessors' company doctor. [REDACTED] has treated many Agriprocessors employees but that is simply because of [REDACTED]. The clinic sees mostly work related injuries, primarily lacerations. Agriprocessors employees with insurance can chose any doctor for personal health issues.

For worker's compensation claims, the clinic bills Agriprocessors directly. Agriprocessors then decides to either pay the bill or to forward it to the company's insurance carrier for payment. [REDACTED] believes the company's insurance carrier for worker's compensation is Gallagher Bassett. Workers Compensation payment checks usually come with the name "Cysco" on the check. The clinic used to have some problems collecting worker's compensation payments but recently that has improved. Agriprocessors usually asks the clinic for an authentication sheet before paying claims.

Workers with personal health insurance usually have Midland's Choice as care provider. The clinic used to have problems getting Midland's Choice to pay in a timely manner but that has improved recently. If a patient does not have an insurance card for personal health matters, the clinic bills directly to the patient. Patient deductibles are not listed on the Midlands Choice insurance card so the clinic has to wait for the Explanation of Benefits (EOB) statements to determine deductibles and subsequent billings.

The clinic has had no issues with employees falling out of coverage with Midland's Choice. Likewise, the clinic has had no problems collecting payments. Occasionally the clinic may get a notice that a worker's coverage was not yet in effect on a certain date but that situation is uncommon.

[REDACTED] suspects that the local emergency rooms get a lot of use for routine care because many of Agriprocessors' employees do not have personal health insurance.

The clinic recently treated a Rabbi who was contracted with Agriprocessors. The Rabbi had his own insurance company in New York, The Genex Quest Company. The Rabbi was working "clean up" for the 3rd shift.

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 5/13/08	At: Waterloo, Iowa	File: 55-3963-0006-PC
By: SA [redacted]		Date Prepared: 5/15/08

[redacted]
DOB: [redacted]
Address Unknown
Postville, Iowa

On May 13, 2008 at approximately 4:30 pm USDOL, OIG Special Agent [redacted] interviewed [redacted] at the National Cattle Congress Auditorium in Waterloo, Iowa. Cana is a 21 year old Guatemalan male who was in DHS ICE custody following his arrest at Agriprocessors Incorporated in Postville, Iowa. [redacted] stated that he speaks English and that he volunteered to speak with agents. [redacted] was advised of his Miranda Rights verbally in English and [redacted] also read the Miranda Rights in Spanish. [redacted] verbally acknowledged that he understood his Miranda rights. [redacted] also acknowledged his understanding of his rights by placing his signature on the attached document which contains the Miranda Warnings in both English and Spanish. [redacted] voluntarily provided the following information.

[redacted] came to the United States in December of 2003. [redacted] worked on farms until January 2007, when he started working at Agriprocessors Incorporated. [redacted] heard about the jobs at Agriprocessors through his friends, some of whom worked there. [redacted] was hired at Agriprocessors by an American lady named [redacted] or [redacted] LNU. [redacted] described this lady as an American lady with light hair. [redacted] did not have to pay anyone to get the job at Agriprocessors.

[redacted] started out making \$6.25 per hour cutting meat. [redacted] the entire time he was employed at Agriprocessors. [redacted] supervisor was a man named [redacted] LNU. [redacted] was offered health insurance when he started working for Agriprocessors but he declined the coverage because he wanted to save all of the money that he could. [redacted] typically worked 50-55 hours per week. [redacted] was always paid correctly.

[redacted] was treated fairly by the management of Agriprocessors. [redacted] did not witness any abuse of employees. Most of the workers that [redacted] knew were happy working there.

Agriprocessors withheld taxes from [redacted] pay using a false social security number. [redacted] paid \$125 for the false social security number several years ago. Some friends gave [redacted] a telephone number to call to get the false number. After making the payment, the social security card came in the mail. [redacted] cannot remember the phone number he called or the name of the friends who gave provided the number. [redacted] does believe the card was provided by someone in or near Postville, Iowa. [redacted] is not sure if anyone at Agriprocessors knew that the social security number was false.

Sometimes the company withheld money for medicines, such as antibiotics. The company sometimes gave employees medicine if they were accidentally cut. [redacted] had several band-aids on his hands during the interview. [redacted] stated that if the cut were serious enough to see a doctor the company would pay for the doctor's visit.

Report of Interview

U.S. Department of Lab
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 5/13/08	At: Iowa City, Iowa	File: 55-3963-0006-PC
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By: SA (b) (7)(C)

Date Prepared: 5/15/08

(b) (7)(C)

Phone: (w) (b) (7)(C)
(h) (b) (7)(C)

On May 13, 2008 at approximately 6:30 pm LISDOL, OIG Special Agent (b) (7)(C) was contacted telephonically by (b) (7)(C) provided the following information voluntarily.

(b) (7)(C) manages the (b) (7)(C) which provides free medical care to the needy on Thursday evenings. The Free Clinic was started by the Decorah Faith Coalition about 5 years ago. The Free Clinic is funded primarily by donations and (b) (7)(C) is the only paid employee. The rest of the workers are volunteers.

(b) (7)(C) stated that the Free Clinic has no affiliation or agreements with AgriProcessors Incorporated. The clinic has had no contact or communications with AgriProcessors that she is aware of. Patients who seek treatment at the Free Clinic are referred by word of mouth only. (b) (7)(C) is not sure of the percentage of patients who work at AgriProcessors. (b) (7)(C) stated the clinic also sees patients from other large factories, such as Tyson Chicken.

Patients who visit the clinic are required to fill out a registration form with demographics but the form does not ask the patient's citizenship status. The services provided by the clinic include doctors' exams, labs, x-rays and prescriptions. Most of the time the services are provided to the patient for free but there are some rare occasions where the patients are required to pay some of or the entire bill.

(b) (7)(C) stated that she does not recall any of the AgriProcessors workers having insurance. (b) (7)(C) stated that is a bit of surprise to learn that AgriProcessors even had a health insurance plan because so many of AgriProcessors' employees who came in did not have insurance.

Report of Interview

U.S. Department of Lab
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 5/12/08	At: Waterloo, Iowa	File: 55-3963-0006-PC
---------------------------	--------------------	-----------------------

By: SA (b) (7)(C)

Date Prepared: 5/15/08

(b) (7)(C)

DOB: [REDACTED]

Alien [REDACTED]

Phone: [REDACTED]

On May 12, 2008 at approximately 11:57 pm USDOL, OIG Special Agent [REDACTED] interviewed [REDACTED] at the National Cattle Congress Auditorium in Waterloo, Iowa. [REDACTED] is a 17 year old [REDACTED] who was in DHS ICE custody following his arrest at Agriprocessors Incorporated in Postville, Iowa. [REDACTED] stated that he speaks some English and that he volunteered to speak with agents. [REDACTED] was advised of his Miranda Rights verbally in English and [REDACTED] also read the Miranda Rights in Spanish. [REDACTED] verbally acknowledged that he understood his Miranda rights. [REDACTED] also acknowledged his understanding of his rights by placing his signature on the attached document which contains the Miranda Warnings in both English and Spanish. [REDACTED] voluntarily provided the following information.

After the interview began, [REDACTED] uncle [REDACTED] arrived and sat next to [REDACTED] during the interview. [REDACTED] also speaks some English. All of the statements made herein were made by [REDACTED]

[REDACTED] has been in the United States for approximately 6 months and has been working at Agriprocessors for approximately 2 months. [REDACTED] typically works 5-6 days per week, 13 to 16 hours per day. The typical workday is from 9:30am to 10:00 pm or 12:00 am (midnight) [REDACTED] was paid \$7.25 per hour and \$9.00 per hour for overtime. [REDACTED] job is to [REDACTED] inside boxes. [REDACTED] estimates that he averages about 75 hours per week.

[REDACTED] heard about the Agriprocessors job from his friends. All of his Spanish speaking friends work at Agriprocessors. [REDACTED] supervisor is [REDACTED] LNU, who is of Mexican nationality. [REDACTED] stated that he has 4 supervisors but only knows [REDACTED] by name. [REDACTED] has treated [REDACTED] fairly and is nice to him.

[REDACTED] stated he is usually paid on time (weekly) but his check is always missing a small amount of money or time. [REDACTED] complains to the women who work on the second floor of the office at Agriprocessors and they help him get his money back.

[REDACTED] was hired by a woman named [REDACTED]. [REDACTED] has no social security number and there were no taxes withheld from his pay. [REDACTED] asked [REDACTED] if he had "papers" to work in the United States and he told her "no". [REDACTED] showed [REDACTED] his identification card from the [REDACTED] consular and she hired him.

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 5/12/08	At: St. Louis, MO	File: 55-3963-0006-PC
By: SA (b) (7)(C)		Date Prepared: 5/15/08

(b) (7)(C)

DOB: [REDACTED]

Cell: [REDACTED]

On May 12, 2008 at approximately 11:30 a.m. USDOL, OIG Special Agent [REDACTED] and ASAC Michael Barcus interviewed [REDACTED] at Agriprocessors Incorporated in Postville, Iowa. [REDACTED] was advised of the identity of the agents and she voluntarily provided the following information.

[REDACTED] is a Ukrainian female who has a Permanent Resident Card. She presented her Permanent Resident Card to agents for review. [REDACTED] came to the United States on a visitor's visa approximately 15 years ago. [REDACTED] has been working at Agriprocessors for about 6 years.

[REDACTED] makes \$9.75 per hour at Agriprocessors. Her pay is around \$560 per week. [REDACTED] has health insurance. The company withholds about \$185 per week in total deductions from her check.

[REDACTED] worked several jobs while in a "visitor" status. [REDACTED] received her Permanent Resident Card in September 2006. Prior to obtaining the permanent resident card she had a labor certification. Shalom Rabushkin helped [REDACTED] obtain the permanent visa certification.

* The interview with [REDACTED] was cut short because Immigration officials needed her to help move product from the plant floor.

Report of interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: May 12, 2008	At: Postville, IA	File: 55-3963-0006-PCJ
By: (b) (7)(C)		Date Prepared: 5/16/08

(b) (7)(C)
SSN: [REDACTED]

[REDACTED] was interviewed by Special Agents [REDACTED] and [REDACTED] on May 12, 2008 at the Agriprocessors, Inc. plant in Postville, Iowa at approximately 11:12 a.m. [REDACTED] was interviewed regarding his employment and citizenship status.

[REDACTED] came to the United States on a visitor visa during the summer of 1998. Danlin admits that he came to the United States under a false name. [REDACTED] is now married to a United States Citizen and consulted an immigration lawyer to make sure he is now legal in this country. [REDACTED] has had his green card for approximately one and one-half years.

[REDACTED] began working for Agriprocessors as a [REDACTED]. He now works in the [REDACTED]. [REDACTED] was fired from the company in 1999 and went back to work for them in 2000 or 2001. [REDACTED] married his wife in 2001.

[REDACTED] is currently paid \$15.50 per hour. He also has health insurance through the company. The insurance is through Midlands Choice Health Corporation, telephone number (563) 583-5889. He pays \$49.82 per week for his family health insurance premium.

There is no union in the plant although [REDACTED] knows that the union has tried to organize the employees on several occasions. [REDACTED] has observed the union passing out flyers at the gate. [REDACTED] does not know if the employees want a union.

Report of Interview

U.S. Department of Labor
Office of Inspector General
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OIG Form 103 (OI - 1/98)

Investigation on: May 12, 2008	At: Postville, IA	File: 55-3963-0006-PCJ
By: (b) (7)(C)		Date Prepared: 5/16/08

(b) (7)(C)

SSN: [REDACTED]

Evgeni [REDACTED] was interviewed by Special Agents [REDACTED] and [REDACTED] on May 12, 2008 at the Agriprocessors, Inc. plant in Postville, Iowa at approximately 11:00 a.m. [REDACTED] was interviewed regarding his employment and citizenship status.

[REDACTED] is a citizen of Israel. He has been employed by Agriprocessors since January 2008. He came to the United States on an R-1 visa. [REDACTED] family had connections to Rubashkin family who owns Agriprocessors. [REDACTED] did not have his visa paperwork with him but advised that it was at his home in Postville.

[REDACTED] did not pay any money for his visa. The visa is good for five years with an annual renewal required.

[REDACTED] supervisors are Shalom Rubashkin, [REDACTED] and [REDACTED]. [REDACTED] works as [REDACTED] for various equipment and an [REDACTED] has one inspector, [REDACTED] directly over him. [REDACTED] is considered a supervisor even though he does not wear a yellow hat.

[REDACTED] was promised \$500-\$600 per week when he agreed to employment with Agriprocessors. He is receiving the pay that was promised to him. He does not yet have medical insurance. He still has the insurance he had while he was in Israel.

[REDACTED] has not made any contacts with union organizers. He does not interact with non-Jewish employees.



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POWERE

Detainees allege abuse by company

BY GRANT SCHULTE • GSCHULTE@DMREG.COM • MAY 16, 2008

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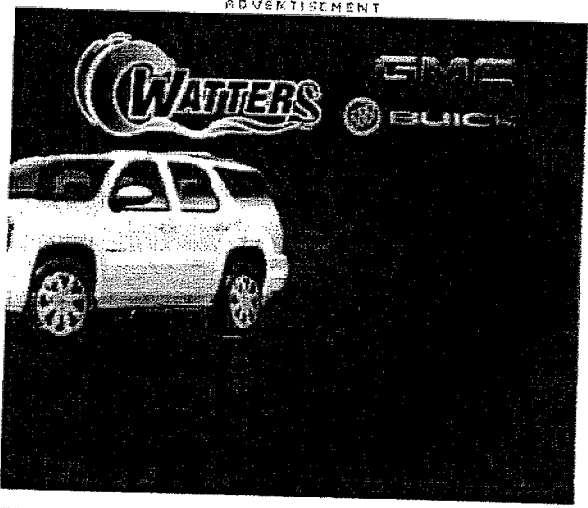
Immigrant workers detained during this week's Agriprocessors Inc. meatpacking raid in Postville allege that the company withheld pay for what it called "immigration fees," denied compensation for overtime and refused to let employees use the restroom during some 10-hour shifts, according to a lawsuit filed late Thursday.

The federal lawsuit on behalf of three arrested workers includes accounts of verbal abuse by plant supervisors and one anecdote about a floor manager who threw meat at his employees.



A bus, marked on Monday in P

ADVERTISEMENT



Federal agents raided the plant on Monday and arrested 389 workers suspected to be illegal immigrants. The workers were detained at the National Cattle Congress in Waterloo, identified and taken to initial court appearances in the largest single-site immigration crackdown in U.S. history.

The lawsuit by Antonin Trinidad Candido, Roman Trinidad Candido and Maria del Refugio Masias alleges that the federal government violated each detainee's due-process rights.

The lawsuit was filed by Amy L. Peck, an Omaha-based attorney, who requested that a federal district judge allow the case to expand into a class-action lawsuit that would include all the workers. A judge has yet to approve the class-action status.

The lawsuit cites stories heard by Sonia Parras Konrad, a Des Moines immigration lawyer who interviewed more than 50 detainees in Waterloo.

According to the lawsuit:

- Workers told Konrad that Agriprocessors Inc. procured bogus identification and employment papers for them.
- The kosher meatpacking plant withheld \$50 per paycheck from employees for what it called "immigration fees."

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Detainees cie:

-- Plant supervisors subjected the immigrant workers to abuse that included derogatory names and physical abuse. A federal affidavit signed on May 9 and made public the day of the raid states that federal authorities launched their raid in part because of allegations that Agriprocessors Inc. was exploiting its employees.

Eighteen of the workers were minors, ranging in age from 13 to 17. Federal agents have since turned the youths over to adult guardians or the Office of Refugee Resettlement, which cares for displaced refugees.

17

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tome@netins.net wrote:

seems 50.00 times 389 = over \$19,000.00 per week or over \$1 MILLION per year?

the real abuse thou is the fact the the gov and legislators knew this was going on and had a bill in committee but decide not to do anything about itand then we learn they took money from them .questioning why they did not right this wrong?

5/19/2008 1:32:50 AM

Recommend

New post

Reply to this Post

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Dakota wrote:

Replying to canary:

One keeps waiting for the light bulbs to come on, for people to connect the dots-- that it is the ability of corrupt employers to abuse, cheat, and underpay immigrants that makes them [attractive] as employees and causes the employer to pass over the US citizens. And, rather than this endless sneaking, hiding, heart-ache and irrational fears and animosity, let along the expense of raids, hearings, busses, attorneys, etc. comprehensive immigration reform would remove the motivation on the part of the employer to cheat, the citizens would have fair access, and the country could control its immigration.

REally, the same as amnesty did in 1986?

5/19/2008 12:06:31 AM

Recommend

New post

Reply to this Post

Report Abuse



Dakota wrote:

Replying to DonRupert:

"The lawsuit by Antonin Trinidad Candido, Roman Trinidad Candido and Maria del Refugio Masias alleges that the federal government violated each detainee's due-process rights." Can i say, "Gee, I told you so" now?

What is the surprise there? This is standard fare for those illegally here that are caught. Just like in New England, women claimed to have children when they didn't, they claimed abuse and found to be lying. It is a ploy used to allow them to remain. It speaks volumes about their character and only reinforced the need to remove them from this country.

5/19/2008 12:02:56 AM

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New post

Reply to this Post

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Dakota wrote:

workerbee....

Look why people break our laws? Because like all of the same mindset, they think they can get away with it. The United States can not take in everyone that wants to come here. It is the same all over the world,

- Agriprocessor:
- Plant has offer
- Lawyers aver:
- Braley told reg
- MORE STOF

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Hansen: Nonsn

Plant owners: N

Feds say raid is

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countries have limits because their resources can only take care of so many. Those that violate our sovereignty, violate our laws and take jobs from Americans do not deserve respect or compassion. Many entering are not truly poor nor are their children starving. It is widely known in MX & So America that "we give free stuff", that is why they come. If you want to see poverty look at Darfur or Chad

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5/18/2008 11:58:41 PM

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DamagedEagle wrote:

Abuses in a plant that no US citizen would take a job at because it's a job that they do not want to do? Say it isn't true! Do you think that along with the low wages this also might be a reason no US citizen would want to work there?
"The truths which makes men free is for the most part the truth which men prefer not to hear."
Herbert Agar

5/18/2008 5:52:45 PM

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62 pages

Referred to DHS ICE

Nos. 06-1329, 06-1349

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AGRI PROCESSOR CO., INC.

Petitioner/Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD

Respondent/Cross-Petitioner

ON PETITION FOR REVIEW AND CROSS-APPLICATION
FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

BRIEF FOR
THE NATIONAL LABOR RELATIONS BOARD

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UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 06-1329, 06-1349

AGRI PROCESSOR CO., INC.

Petitioner/Cross-Respondent

v.

NATIONAL LABOR RELATIONS BOARD

Respondent/Cross-Petitioner

ON PETITION FOR REVIEW AND CROSS-APPLICATION
FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

BRIEF FOR
THE NATIONAL LABOR RELATIONS BOARD

STATEMENT OF JURISDICTION

This case is before the Court on the petition of Agri Processors Co., Inc. ("the Company") to review, and the cross-application of the National Labor Relations Board to enforce, a Board order against the Company. The Board had jurisdiction over the unfair-labor-practice proceeding below under Section 10(a) of the National Labor Relations Act, as amended (29 U.S.C. § 160(a)). The Decision and Order, issued on August 31, 2006, and reported at 347 NLRB No. 107, is a

final order with respect to all parties under Section 10(e) and (f) of the Act (29 U.S.C. § 160(e) and (f)).

The Company petitioned for review of the Board's order on September 20, 2006, and the Board cross-applied for enforcement of the order on October 17. The Court has jurisdiction over the Company's petition and the Board's cross-application pursuant to Section 10(e) and (f) of the Act. Both were timely filed, as the Act imposes no time limit for such filings.

The Board's unfair-labor-practice order is based, in part, on findings made in an underlying representation proceeding, *Agri Processor, Inc.*, Board Case No. 29-RC-11242. (A 112.)¹ Pursuant to Section 9(d) of the Act (29 U.S.C. § 159(d), the record before this Court therefore includes the record in that proceeding.² Section 9(d) authorizes judicial review of the Board's actions in a representation proceeding for the limited purpose of deciding whether to "enforc[e], modify[], or set[] aside in whole or in part the [unfair-labor-practice] order of the Board . . . ," but does not give the Court general authority over the representation proceeding. 29 U.S.C. § 159(d). The Board retains authority under Section 9(c) of the Act (29

¹ "A" refers to the Joint Appendix. Where applicable, references preceding a semicolon are to the Board's findings; those following, to the supporting evidence.

² See also *Boire v. Greyhound Corp.*, 376 U.S. 473, 476-79 (1964).

U.S.C. § 159(c)) to resume processing the representation case in a manner consistent with the ruling of the Court in the unfair-labor-practice case.³

STATEMENT OF THE ISSUES PRESENTED

The ultimate issue in this case is whether the Company violated Section 8(a)(5) and (1) by refusing to bargain with its employees' duly certified representative, the Union. Because the Company asserts in its defense that the Board's certification was invalid due to the allegedly undocumented status of a number of unit employees, the Court must determine whether the Board reasonably found that: undocumented workers are "employees" under the Act, any undocumented workers were appropriately in the bargaining unit and eligible to vote, and the Company failed to demonstrate that the employees in question are undocumented.

³ See, e.g., *Freund Baking Co.*, 330 NLRB 17, 17 & n.3 (1999); *Medina County Publ'ns*, 274 NLRB 873, 873 (1985).

RELEVANT STATUTORY PROVISIONS

Section 2(3) of the Act, 29 U.S.C. § 152(3):

The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless this subchapter explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to the Railway Labor Act . . . , or by any other person who is not an employer as herein defined.

Section 7 of the Act, 29 U.S.C. § 157:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities. . . .

Section 8(a)(1) and (5) of the Act, 29 U.S.C. § 158(a)(1) and (5):

It shall be an unfair labor practice for an employer--

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 157 [Section 7] of this title.

(5) to refuse to bargain collectively with the representatives of his employees. . . .

STATEMENT OF THE FACTS AND OF THE CASE

I. THE REPRESENTATION PROCEEDING

In August 2005, the Union petitioned for an election to represent a unit of the Company's employees. Early the next month, the parties signed a Stipulated Election Agreement, consenting to a unit definition⁴ and scheduling the election for September 23, 2005. (A 111-12; 7-9.) The Union won the election but the Company filed timely objections to conduct affecting the election. (A 112; 10-14.)

The Board's Regional Director overruled some of the Company's objections outright and the Board adopted his conclusions respecting those objections on December 21, 2005. (A 112; 42-44, 58-59.) The Regional Director referred the remaining objections to a hearing before an administrative law judge, who overruled them in a December 16, 2005 Decision on Objections. (A 112; 42-44, 55-57.) The Company filed exceptions to the judge's decision but the Board's Associate Executive Secretary dismissed those exceptions as untimely. (A 112; 60-62, 67.) On January 23, 2006, the Board certified the Union as the collective-bargaining representative of the Company's unit employees. (A 112; 72-73.)

⁴ The unit included "[a]ll full-time and regular part-time production and maintenance warehouse employees, including hi-lo drivers, loaders, pickers, checkers, and forklift operators employed" at the Company's Brooklyn, New York facility, and excluded "[a]ll managers, office and clerical employees, salesmen, truck drivers, guards and [statutory] supervisors."

II. THE UNFAIR-LABOR-PRACTICE PROCEEDING

After the certification, the Company refused to comply with the Union's bargaining demands. (A 112; 13, 15.) On March 21, 2006, pursuant to a charge filed by the Union, the Board's General Counsel issued a complaint, which alleged that the Company's refusal to bargain violated Section 8(a)(5) and (1) of the Act (29 U.S.C. § 158(a)(5) and (1)). (A 111; 74, 80-83.) The Company asserted in its defense that the representation election was invalid because a majority of the voting employees were illegal aliens who could not legally work in the United States. (A 111; 91-94.) In his May 12, 2006 decision, the administrative law judge rejected the Company's defenses and recommended that the Board find the violation charged. The Company filed timely exceptions to the judge's decision before the Board. (A 110, 112.)

III. THE BOARD'S CONCLUSIONS AND ORDER

In an August 31, 2006 Decision and Order, the Board (Chairman Battista, Members Liebman and Kirsanow) found, in agreement with the judge, that the Company's refusal to bargain constituted an unfair labor practice in violation of Section 8(a)(5) and (1) of the Act. Like the judge, it rejected the Company's reliance on the unit employees' immigration status as well as the Company's evidence for establishing their status. (A 110.)

To remedy that unfair labor practice, the Board's order requires the Union to cease and desist from failing and refusing to bargain collectively with the Union or, in any like or related manner, interfering with, restraining, or coercing employees in the exercise of their rights under Section 7 of the Act (29 U.S.C. § 159). Affirmatively, the Board's order requires the Company to bargain with the Union and, if an understanding is reached, to embody the understanding in a signed agreement. The order also requires that the Company post a remedial notice.

(A 110-11.)

SUMMARY OF ARGUMENT

After stipulating to a representation election for a unit of its employees and unsuccessfully pursuing a number of challenges to the Union's victory in that election, the Company suddenly decided to look into whether its employees are authorized to work in the United States. When its initial inquiry identified potential problems with several employees' social-security numbers, the Company admittedly refused to recognize the Union as its employees' representative and bargain with the Union. It now claims that the Board's certification of the Union is invalid because those employees are purportedly undocumented, and therefore not "employees" under the Act, and therefore ineligible to vote in representation elections.

The Company's arguments are without merit, both legally and factually. According to longstanding Board and court precedent, undocumented workers are statutory employees, and immigration status is irrelevant to determining voting eligibility under the Act. Moreover, the Company's evidence of non-matching social-security numbers is – according to the Social Security Administration itself – insufficient to prove the immigration status of the employees at issue. In sum, the Company has no excuse for refusing to bargain with the duly certified representative of its employees, and this Court should enforce the Board's order requiring it to do so.

STANDARD OF REVIEW

The Board's legal determinations under the Act are entitled to deference, and this Court will uphold them "so long as they are neither arbitrary nor inconsistent with established law."⁵ The Board's findings of fact are conclusive if supported by substantial evidence in the record considered as a whole.⁶ Evidence is substantial when "a reasonable mind might accept [it] as adequate to support a

⁵ *Tualatin Elec., Inc. v. NLRB*, 253 F.3d 714, 717 (D.C. Cir. 2001); see also *Fall River Dyeing & Finishing Corp. v. NLRB*, 482 U.S. 27, 42 (1987) ("If the Board adopts a rule that is rational and consistent with the Act, . . . then the rule is entitled to deference from the courts.") (citation omitted).

⁶ 29 U.S.C. § 160(e). See *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 488 (1951). *Accord Evergreen America Corp. v. NLRB*, 362 F.3d 827, 837 (D.C. Cir. 2004).

conclusion.”⁷ Thus, the Board’s reasonable inferences may not be displaced on review even though the Court might justifiably have reached a different conclusion had the matter been before it *de novo*.⁸ Further, although the Board is entitled to no particular deference when it interprets federal immigration law,⁹ it is not compelled to “abandon an independent inquiry into the requirements of its own statute” simply because another federal statute may be implicated.¹⁰ Finally, this Court accords particular deference to the Board’s unit determinations.¹¹

⁷ *Universal Camera*, 340 U.S. at 477; see also *Allentown Mack Sales & Svc., Inc. v. NLRB*, 522 U.S. 359, 366-67 (1998) (“Put differently, [the Court] must decide whether on th[e] record it would have been possible for a reasonable jury to reach the Board’s conclusion.”).

⁸ See *Universal Camera*, 340 U.S. at 488. *Accord Evergreen America*, 362 F.3d at 837 (“[T]he court will uphold the Board’s decision upon substantial evidence even if we would reach a different result upon *de novo* review.”).

⁹ See *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137, 144 (2002).

¹⁰ *Carpenters Local 1976 v. NLRB*, 357 U.S. 93, 111 (1958)(interpreting *Southern S.S. Co. v. NLRB*, 316 U.S. 31, 47 (1942)).

¹¹ *Speedrack Prods. Gr., Ltd. v. NLRB*, 114 F.3d 1276, 1278 (D.C. Cir. 1997).

ARGUMENT

SUBSTANTIAL EVIDENCE SUPPORTS THE BOARD'S FINDING THAT THE COMPANY VIOLATED SECTION 8(a)(5) AND (1) OF THE ACT BY REFUSING TO BARGAIN WITH THE UNION

An employer's refusal to bargain with its employees' duly certified representative violates Section 8(a)(5) and (1) of the Act (29 U.S.C. § 158(a)(5) and (1)).¹² Here, the Board certified the Union as the bargaining representative of a unit of the Company's employees, following the Union's representation-election victory. (A 72-73.) Nonetheless, the Company admittedly (Br 19, A 13 & 15) refused to bargain with the Union. In defense of its refusal, the Employer makes several arguments based on its claim that, at the time of the election, the majority of the relevant unit employees were undocumented workers, not authorized to work legally in the United States. Unless those arguments prevail – and the following discussion will demonstrate that the Board reasonably rejected each of them – the Employer's refusal to bargain is unlawful.¹³

¹² See *Regal Cinemas, Inc. v. NLRB*, 317 F.3d 300, 309 (D.C. Cir. 2003). A Section 8(a)(5) refusal-to-bargain unfair labor practice results in a “derivative violation” of Section 8(a)(1). See *Regal*, 317 F.3d at 309 n.5.

¹³ See *Boire*, 376 U.S. at 476-77 (explaining that employers can challenge the Board's union-certification determinations only through an unfair-labor-practice proceeding, typically the sort of technical refusal-to-bargain case at issue here).

**A. UNDOCUMENTED WORKERS ARE STATUTORY “EMPLOYEES”
AND THEIR IMMIGRATION STATUS DOES NOT AFFECT THEIR
RIGHT TO PARTICIPATE IN REPRESENTATION ELECTIONS**

As the Supreme Court has noted, the breadth of the statutory definition of “employee” is “striking.”¹⁴ Specifically, Section 2(3) of the Act defines the term to “include any employee” not expressly excluded.¹⁵ And the statute’s express exclusions are limited to agricultural laborers, domestic servants of a family or person at his home, individuals employed by a parent or spouse, independent contractors, supervisors, or persons employed by employers subject to the Railway Labor Act.¹⁶

The Company does not even claim that undocumented workers fall into any of those excluded categories. Still, it urges this Court (Br 23, 25-26) to find that they are not “employees,” principally based on alleged conflicts with the Immigration Reform and Control Act of 1986 (“IRCA”) (8 U.S.C. § 1324a, et seq.). Such a finding, however, would both run counter to the relevant statutory language and contradict well-established Board and court precedent, not to mention congressional intent.

¹⁴ *Sure-Tan, Inc. v. NLRB*, 467 U.S. 883, 891-92 (1984). *Accord Seattle Opera v. NLRB*, 292 F.3d 757, 762 (D.C. Cir. 2002)(quoting *Sure-Tan*).

¹⁵ 29 U.S.C. § 152(3).

¹⁶ *See Id; Sure-Tan*, 467 U.S. at 891.

The Board, with court approval, has consistently found that undocumented workers enjoy statutory employee status and are entitled to the protection of the Act, including the right to vote in representation elections.¹⁷ The Supreme Court confirmed this longstanding principle of labor law in *Sure-Tan, Inc. v. NLRB*, explaining that “[s]ince undocumented aliens are not among the few groups of workers expressly exempted by Congress, they plainly come within the broad statutory definition of ‘employee.’”¹⁸ The Court further held that “the Board’s categorization of undocumented aliens as protected employees furthers the purposes of the [Act],” reiterating its own longstanding position that the inclusion of undocumented workers in the Act’s scope of protection advances the rights of

¹⁷ See, e.g., *Concrete Form Walls, Inc.*, 346 NLRB No. 80, 2006 WL 1001906, *4 & n.15 (2006) (“[W]e reject the Respondent’s argument that undocumented workers are not statutory employees.”), *application for enforcement pending* (11th Cir. Nos. 06-13845-GG & 06-14997-GG); *Logan & Paxton*, 55 NLRB 310, 315 n.12 (1944) (“The Act does not differentiate between citizens and non-citizens.”). *Accord NLRB v. Apollo Tire Co., Inc.*, 604 F.2d 1180, 1182-83 (9th Cir. 1979) (upholding Board determination that undocumented workers are statutory employees, and citing additional Board cases); *Tuv Taam Corp.*, 340 NLRB 756, 760 (2003) (holding *Hoffman* does not change Board policy that worker’s immigration status is typically irrelevant to employer’s unfair-labor-practice liability under the Act, and relevant only to constructing an appropriate remedy); *Superior Truss & Panel, Inc.*, 334 NLRB 916, 918 (2001) (“The Board has . . . clearly and uniformly applied the principle that individuals who are employed during the eligibility period before and on the date of a representation election are ‘employees’ under the Act and . . . eligible to vote.”).

¹⁸ 467 U.S. at 892.

all workers, both documented and undocumented – and that their exclusion could undermine working conditions for all.¹⁹

As the Board noted (A 112) here, and more fully explained in *Concrete Form Walls, Inc.*,²⁰ the Supreme Court's more recent decision in *Hoffman Plastic Compounds, Inc. v. NLRB*,²¹ does not call into question *Sure-Tan*'s holding that undocumented workers have "employee" status. Indeed, the *Hoffman* decision, which focuses on the Board's *remedial* powers, did not revisit that coverage issue.²² The Court did find that the 1986 enactment of IRCA, subsequent to *Sure-Tan*, limited the Board's authority to order backpay for undocumented workers.²³ But its decision did not even involve non-remedial issues such as the voting eligibility at issue here, much less disturb settled Board precedent that employees' immigration status is irrelevant to their eligibility to vote in representation

¹⁹ *Sure-Tan*, 467 NLRB at 891 (quoting *De Canas v. Bica*, 424 U.S. 351, 356-57 (1976), and citing *NLRB v. Hearst Publs.*, 322 U.S. 111, 126 (1944) and *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 33 (1937)). *Accord Concrete*, 2006 WL 1001906, *5 (quoting House Judiciary Report on the IRCA, H.R. Rep. No. 682(I), 99th Cong. 2d Sess. 58 (1986), reprinted in 1986 USCCAN 5649, 5662 (quoting *Sure-Tan*)).

²⁰ 2006 WL 1001906, *4.

²¹ 535 U.S. 137 (2002).

²² *Id.* at 150 n.4. See *Concrete*, 2006 WL 1001906, *4.

²³ *Id.* at 147-49.

elections. Moreover, as the Board noted in *Concrete*, the Court implicitly accepted the premise that undocumented workers are entitled to protection under the Act when it noted that the Board retained other “significant” remedial options for addressing unfair labor practices perpetrated against such workers.²⁴

Likewise, the legislative history of IRCA suggests that Congress intended to leave *Sure-Tan*'s coverage finding undisturbed. As the Board pointed out in *Concrete*, Congress explicitly found that “the employer sanctions provisions [of IRCA] are not intended to limit in any way the scope of the term ‘employee’ in Section 2(3) of [the Act] or of the rights and protections stated in Sections 7 and 8 of that Act.”²⁵ The Company's failure to identify any case expanding *Hoffman*'s holding to exclude undocumented workers from these statutory protections further demonstrates the futility of its arguments.

In fact, regarding the issue in the instant case, the Board has, with court approval (albeit in a pre-*Hoffman* decision), specifically explained why IRCA does not impact undocumented workers' eligibility to vote in representation elections or enable employers to refuse to bargain with their employees' unions just because some employees are undocumented. In *Kolkka Tables and Finnish-American*

²⁴ *Id.* at 152; *Concrete*, 2006 WL 1001906, *4.

²⁵ 2006 WL 1001906, *5 (quoting House Judiciary Report on the IRCA, H.R. Rep. No. 682(I), 99th Cong. 2d Sess. 58 (1986) (emphasis added)).

Saunas, the employer and union, like the Company and Union here, entered into a stipulated election agreement defining a voting unit of “full-time and regular part-time” employees.²⁶ As in this case, the Board conducted an election pursuant to the parties’ agreement, and the union won. And, like the Company, the employer subsequently protested the validity of the union’s certification based on the alleged undocumented status of certain unit employees.²⁷

The Board in *Kolkka* rejected the employer’s arguments, holding that the relevant inquiry for voting eligibility is whether a worker is a statutory employee at the time of the election in question, not whether that worker may legally have been subject to termination at that time.²⁸ As the court pointed out in enforcing the Board’s order, accepting the employer’s argument would enable employers “to avoid [their] obligations under both [the Act and IRCA].” It explained that “[a]n employer would be rewarded for violating the IRCA through the hiring and continued employment of unauthorized aliens because their participation in any union election would defeat that election, even if it was otherwise valid under the [Act]. Employers with undocumented alien employees could manipulate election

²⁶ *NLRB v. Kolkka Tables & Finnish-American Saunas*, 170 F.3d 937, 939 (9th Cir. 1999)(describing underlying, unpublished representation decision).

²⁷ *See id.*

²⁸ *Id.* at 940.

results” by modifying the composition of the voting unit or by threatening illegal employees into voting against the union.²⁹ Those same considerations mitigate against adopting the Company’s arguments here.

Together, *Concrete* and *Kolkka* bely the Company’s assertion (Br 33) that the Board’s position on undocumented workers ignores the effects of IRCA. And the Company does not respond in any meaningful way to the Board’s analysis in *Concrete*, although the Board here (A 110 & n.1, 112) specifically referenced and relied on that decision. Instead, the Company makes a single, unavailing effort (Br 31) to distinguish *Concrete*, noting that the Board did not require the employer in that case to reinstate undocumented strikers. But, contrary to the Company’s suggestion (Br 31), the Board did not require any such action here either, or even so much as comment on the fate of the Company’s striking employees. The issue of the striking employees is not part of this case, which is confined to a determination that the Company must bargain with its employees’ duly certified representative. In any event, a discussion of the strikers’ rights would not particularly distinguish this case from *Concrete*, which, in addition to rejecting the employer’s argument that undocumented workers were ineligible to vote,

²⁹ *Id.* at 941.

determined that the employer had unlawfully discharged undocumented workers in violation of the Act.³⁰

Essentially, the Company's argument boils down to a request that this Court take the radical steps of rejecting the plain language of Section 2(3) and upending longstanding Board and Court precedent to find that undocumented workers are not protected by the Act. Such a request is patently without merit, particularly given that the Board has in no way failed, as the Company suggests, to account for both IRCA and *Hoffman* in constructing its policy in this area of law. And, of course, labor-law policy is the Board's province in the first instance. Insofar as the Company asks this Court to alter Board policy regarding undocumented workers, the Court must consider that request in the context of its obligation to uphold "any interpretation [of the term "employee" in the Act] that is reasonably defensible."³¹ As the Company has failed to bring the Board's interpretation of the Act into question, the Court should have no trouble rejecting its position.

B. THE BOARD REASONABLY FOUND THE BARGAINING UNIT, WHICH INCLUDES BOTH LEGAL AND UNDOCUMENTED EMPLOYEES, TO BE APPROPRIATE

The Company pursues a series of additional challenges to the Union's certification that are based on the undocumented status of many of the unit

³⁰ *Id.* at *4 & n.15.

³¹ *Sure-Tan*, 467 U.S. at 891.

employees, but ostensibly independent of its argument that the Act does not protect such employees. Those challenges all basically rehash its insistence that a worker's lack of legal employment authorization deprives that worker of all rights under the Act, giving employers who take advantage of undocumented labor carte blanche to ignore the Act. They should, therefore, all fail alongside the Company's misguided insistence that undocumented workers are not statutory employees.

In any event, the Company's insistence that the Board erred in certifying the Union because the represented unit is inappropriate does not hold water. The Company contends that undocumented workers are comparable to retired or temporary workers, and thus either are not statutory employees (Br 26) or lack the necessary "community of interest" with regular, legal employees to be part of the same bargaining unit (Br 29).³² The preceding section of this brief refutes the statutory-employee argument, and the following discussion will explain why the unit-composition argument is equally meritless.

³² See generally *NLRB v. Action Automotive, Inc.*, 469 U.S.490, 494 (The Board focuses on whether employees share a community of interest when defining appropriate bargaining units.); *Speedrack Prods. Gr., Ltd. v. NLRB*, 114 F.3d 1276, 1278 (D.C. Cir. 1997) ("An employee is eligible to vote in a representation election if she shares 'a community of interest' with the other employees in the unit.").

In exercising its considerable discretion to determine appropriate bargaining (and voting) units,³³ the Board examines whether employees in a proposed unit share a community of interest. As the Board (guided by this Court) clarified in *Speedrack Products Group, Ltd.*, community of interest stems from shared working conditions, not parallel non-work lives or similar non-work status.³⁴ For example, the Board in that case, discussing a potential unit combining prisoners on work release (“WR”) and their non-prisoner coworkers, explained that it would determine community of interest based “solely on the status of the WR employees while in the employee relationship and not on what ultimate control the WR employees may be subjected to by prison authorities at other times.”³⁵

The Company here presents no evidence that the at-work interests of its allegedly undocumented and its legal workers fail to align, much less that they conflict, as it claims (Br 33-35). It merely cites the difference in immigration status and compares undocumented workers to retired or temporary workers. With

³³ See above, page 9 & note 11.

³⁴ 325 NLRB 609, 609 (1998). See also *Speedrack*, 114 F.3d at 1280 (finding “the focus of the community of interests test is on the interests of employees *as employees*, not their interests more generally,” and citing cases for proposition that community of interests stems from similar treatment of employees “when on the job”).

³⁵ 325 NLRB at 609 (finding community of interest where WR employees were integrated into workforce, with same wages, hours, supervision, and benefits as other employees).

respect to immigration status, the Supreme Court in *Sure-Tan* implicitly rejected the argument that undocumented and legal workers have completely divergent interests, finding instead that protecting undocumented workers furthers the interest of all employees.³⁶ With respect to the community-of-interest argument, both retired and temporary employees (as defined by the Company) are materially distinguishable from the allegedly undocumented workers employed as regular employees in this case.

Retired employees, most obviously, do not share working conditions with regular workers, as they do not work at all. The type of temporary workers that the Company invokes with its citation to this Court's *Davis Memorial Goodwill Industries, Inc. v. NLRB* may work with regular employees under similar conditions but do so with the knowledge that the employer will end their future employment after a specific contract period.³⁷ For those employees, "the prospect of termination [is] sufficiently finite on the [voting] eligibility date to dispel reasonable contemplation of continued employment beyond the term for which the employee was hired."³⁸ In *Davis*, for example, each temporary employee signed a statement when he was hired, acknowledging that he was "strictly in a ninety-day

³⁶ See above, pages 12-13 & note 19.

³⁷ 108 F.3d 406, 412-13 (D.C. Cir. 1997).

³⁸ *Id.* (quotation omitted).

temporary position, unless otherwise stated by my supervisor or granted an extension.”³⁹ Such explicitly temporary employees’ knowledge that they have no stake in the future of the shared workplace might prevent them from having a community of interest with regular workers, as the Company asserts (Br 28-29). Conversely, undocumented workers’ fear of detection and termination does not prevent them from sharing a community of interest with their coworkers. That fear is counterbalanced by a hope of continuing their employment indefinitely, giving them a similar expectation of future employment as “regular” at-will employees who hold their jobs at the whim of their employers.

More fundamentally, expected tenure is not necessarily dispositive of the community-of-interest inquiry. Indeed, the Board has specifically evaluated the issue of undocumented workers’ community of interest with legal coworkers, as well as that of temporary with regular coworkers, and has found mixed units appropriate in both cases where shared working conditions create common interests.⁴⁰ Moreover, this Court has recognized and approved the Board’s

³⁹ *Id.* at 413.

⁴⁰ *See, e.g., Outokumpu Copper Franklin, Inc.*, 334 NLRB 263, 264 (2001)(holding temporary contract workers had sufficient community of interest with regular employees that they must be in appropriate unit; they shared most working conditions, including job duties, supervision, and hours); *Duke City Lumber Co.*, 251 NLRB 53, 53 (1980)(pre-*Hoffman* case dismissing union’s petition to represent unit “excluding undocumented persons” because no evidence that employer treated any group of employees differently with respect to terms and

longstanding rule that employment in the represented unit during the eligibility period and on the date of the election is sufficient to ensure voter eligibility. This is true, contrary to the Company's suggestion (Br 35), even for an employee who intends to quit his employment after the election and in fact does so.⁴¹ Certainly, an undocumented worker who may fear dismissal pursuant to immigration laws is no less invested in his job than an employee who plans to quit his job following the election.

As the above analysis demonstrates, the Company's contention that the voting employees at issue here had no continued expectation of employment once it found out they were undocumented is legally inapposite. Immigration status is irrelevant to voting eligibility and a limited expectation of future employment does not necessarily destroy community of interest. In addition, the Company's argument is factually unsupported. After all, the Company did not obtain its evidence of the employees' purported illegality – much less notify the employees in question of its suspicions – until after the election. (Br 21-22, A 143-62, 340.) Accordingly, their expectation of indefinite job tenure remained unaffected at the time of the vote.

conditions of employment; undocumented workers, if any, would share community of interest with legal employees).

⁴¹ See, e.g., *Saint-Gobain Industrial Ceramics, Inc. v. NLRB*, 310 F.3d 778, 782-83 (D.C. Cir. 2002).

C. THE COMPANY HAS NOT SHOWN THAT THE MAJORITY OF ITS UNIT EMPLOYEES WERE UNDOCUMENTED WORKERS

As explained above, the immigration status of the Company's unit employees is immaterial to their voting eligibility. The Company's arguments (Br 36-39) regarding the adequacy of its proof of work authorization, therefore, have no effect on the ultimate outcome of this case. Nonetheless, the Board reasonably held (A 112) that the evidence described in the Company's offer of proof would be inadequate to demonstrate that the employees were undocumented. That holding is consistent with the Board's precedent and announced procedures.

As the Board explained when presented with evidence of non-matching social-security numbers in *Concrete*, even an official "no match" letter from the Social Security Administration is not sufficient to prove an employee's immigration status.⁴² Accordingly, the Board' reasonably concluded (A 112), consistent with both its own precedent and the Social Security Administration's guidance, that evidence showing that employees' social-security numbers do not

⁴² 2006 WL 1001906, *6 & n.20 (citing IMMIGRATION EMPLOYMENT COMPLIANCE HANDBOOK § 6:53 (West 2004). *Accord Perez-Farias v. Global Horizons, Inc.*, 2006 WL 2129295, *4 (E.D. Wash. July 28, 2006) ("A mismatch [of social security numbers] does not make any statement about an employee's immigration status. . . .") (quoting Social Security Administration, *Employer Reporting Instructions & Information*, <http://www.ssa.gov/employer/ssnvrestrict.htm> (last visited May 15, 2007)).

match the social-security database is insufficient to demonstrate that those employees are not authorized to work in the United States.

The Company errs in asserting (Br 36-39) that it was the employees', the Union's, or the Board's burden to prove that the employees possessed proper work authorization. Once again, the immigration issue is irrelevant to the voting eligibility at issue here. But, to the extent the Company persists in claiming that the employees' purported undocumented status removes them from the Act's protection, it is well-settled that the party asserting an exemption from statutory protection bears the burden of demonstrating it.⁴³

Finally, contrary to the Company's assertions (Br 37-39), General Counsel Memorandum 02-06 – which, in any event, is not binding on the Board⁴⁴ – does not suggest that the Board follow a burden-shifting procedure in cases like this one. In fact, the memorandum twice explicitly states that “[i]f a party raises the

⁴³ See *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 711 (2001) (noting “the general rule of statutory construction that the burden of proving justification or exemption under a special exception to the prohibitions of a statute generally rests on one who claims its benefits”) (quotation omitted).

⁴⁴ See *Sutter Roseville Medical Ctr.*, 348 NLRB No. 29, 2006 WL 2826427, *14 (2006) (“The views of the General Counsel are those of the prosecutor and do not bind the Board.”); *George Joseph Orchard Siding, Inc.*, 325 NLRB 252, 255 (1998) (“[T]he General Counsel’s memoranda, or indeed other communications or positions of the General Counsel, like the positions of the counsel for the General Counsel made at trial, are but the position of a party to the complaint litigation. As such the General Counsel’s positions—as opposed to joint General Counsel-Board

issue of an employee's immigration status at a representation case hearing, the Hearing Officer should not permit evidence to be adduced, but rather should allow the party to present a brief offer of proof" (p. 2 n.4, p.6). The language that the Company quotes from the memorandum (Br 37), like the cases it cites for the proposition that an employee must prove his documentation (Br 38), applies only where the employee is potentially eligible for a backpay and reinstatement remedy. Accordingly, the judge appropriately rebuffed the Company's efforts to submit evidence regarding immigration status in the context of a challenge to a representation election.

CONCLUSION

In sum, the Board reasonably held, according to its court-approved precedent, that undocumented workers are statutory employees under the Act. It further reasonably held, consistent with its longstanding policy, that an employee's immigration status is irrelevant to his voting eligibility for a representation election. Neither the Company's direct nor its oblique attacks succeed in undermining those fundamental labor-law principles, and its evidentiary arguments are both irrelevant and without merit.

determinations or provisions-are not binding on the Board or its judges and are effective only to the extent they are persuasive.”).

For the foregoing reasons, the Board respectfully requests that this Court deny the Company's petition for review, grant the Board's cross-application for enforcement, and enter a judgment enforcing in full the Board's Order in this matter.

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May 22, 2007
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UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AGRI PROCESSOR CO., INC

Petitioner/Cross-Respondent : Nos.06-1329, 06-1349

v.

: Board Case No.
: 29-CA-27396

NATIONAL LABOR RELATIONS BOARD

Respondent/Cross-Petitioner

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), the Board certifies that its final brief contains 5,804 words of proportionally-spaced, 14-point type, and the word processing system used was Microsoft Word 2000.

Aileen A. Armstrong
Deputy Associate General Counsel
National Labor Relations Board
1099 14th Street, NW
Washington, DC 20570

Dated at Washington, DC
this 22rd day of March 2007

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AGRI PROCESSOR CO., INC.

Petitioner/Cross-Respondent

Nos.06-1329, 06-1349

v.

NATIONAL LABOR RELATIONS BOARD

Respondent/Cross-Petitioner

Board Case No.
29-CA-27396

CERTIFICATE OF SERVICE


The undersigned hereby certifies that the Board has this date sent to the Clerk of the Court by first-class mail the required number of copies of the Board's final brief in the above-captioned case, and has served two copies of that brief by first-class mail upon the following counsel at the address[es] listed below:

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(202) 273-2960

Dated at Washington, DC
this 22rd day of May, 2007

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POWER

ID fraud claims bring state's largest raid

BY NIGEL DUARA, GRANT SCHULTE • AND WILLIAM PETROSKI • NDUARA@DMREG.COM • MAY 13, 2008

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Postville, Ia. - The largest workplace raid in Iowa history Monday resulted in the arrest of more than 300 people and reignited the debate over immigration.

As two law enforcement helicopters hovered overhead, dozens of federal agents descended on Agriprocessors Inc., the nation's largest kosher slaughterhouse.

The 300 people arrested represent almost one-third of the plant's 968 workers, and federal officials said the number of arrests could increase. The number is three times as many as were arrested in a raid 18 months ago at the Swift plant in Marshalltown.

[Click here for complete coverage, photos, video](#)

video



Months in planning, Monday's raid involved 16 local, state and federal agencies, led by U.S. Immigration and Customs Enforcement (ICE). They executed search warrants related to criminal activity, as well as a civil search warrant for people believed to be in the United States illegally.

"This is the largest operation of its type ever in Iowa," said Matt M. Dummermuth, U.S. attorney for the Northern District.

Protests in Waterloo

About 200 protesters on Monday evening filled the sidewalk in front of the gates of the National Cattle Congress fairgrounds, where those arrested were being taken by bus.

They chanted "We have rights" and waved signs that said, among other things, "Honk for Human Rights."


Father Nils Hernandez of the Immaculate Conception Parish in Cedar Rapids came to Waterloo after he heard about the raid.

"This is inhumane," he said.

The protesters were faced with a half-dozen people who shouted "Send 'em back," to which the crowd responded, "We have a right to be here, too."



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PROFIT

QUARTER

Feds allege rampant ID fraud

A federal search warrant said immigration officials have filed almost 700 complaints about immigration violations and criminal activity by

workers at the Postville plant. The activity spans a two-year period, and some workers face multiple allegations.

Federal officials allege that as many as three-fourths of the company's workers at the end of last year were using fraudulent Social Security numbers.

Last November, the search warrant said, ICE agents interviewed a former Agriprocessors supervisor who said some employees were running a methamphetamine lab in the plant and were bringing weapons to work.

Another source alleged worker abuse, officials said in the warrant. In one case, a supervisor covered the eyes of an employee with duct tape and struck him with a meat hook.

The worker, who had entered the country illegally from Guatemala, was not seriously injured. He declined to report the incident for fear of losing his job, the warrant said.

Another plant worker told federal officials that undocumented workers were paid \$5 an hour for their first few months before receiving a pay increase to \$6 per hour. The minimum wage in Iowa is \$7.25 an hour.

Company officials could not be reached for comment. The plant, which produces kosher and nonkosher meats, opened in 1987 when butcher Aaron Rubashkin and about 200 Hasidic Jews from New York took over a defunct meatpacking plant. Hasidic Jews follow strict laws. It is a branch of Orthodox Judaism.

The Jews' arrival turned Postville, a community of 2,273 people on the Allamakee-Clayton county border in northeast Iowa, into one of Iowa's most ethnically diverse.

Rumors of raids elsewhere

Rumors had swirled across eastern Iowa for several days that one or more raids of meat-processing plants were imminent, but federal agents said Monday's action was limited to the Postville plant.

Gov. Chet Culver said he was told of the raid about 10:15 a.m. He appointed a group of state agency officials, led by Lt. Gov. Patty Judge, to help Postville deal with the raid's impact.

The governor said federal officials reassured his staff that those arrested and detained will have their rights protected. He also emphasized the importance of enforcing immigration laws.

"I have said before that I believe it is important that we crack down on illegal immigration," Culver said. "Illegal means illegal, not just those that are crossing the border illegally, but also those who are responsible for helping to make it happen."

State and federal labor officials confirmed Monday that investigations had been under way at the Postville plant for possible violations of labor laws.

The United Foods and Commercial Workers Union, which had been trying to organize Agriprocessors' employees, said it had alerted government investigators that the plant was exploiting underage workers and paying them off the books, said Jill Cashen, a union spokeswoman.

It's unclear whether the union's charges led to Monday's raid. Mark Lauritsen, the union's international vice president, wrote to ICE officials on May 2, asking them to refrain from raiding the Postville plant while the other investigation was under way. ICE officials had no comment on the letter.

Buses depart for Waterloo

Buses, apparently filled with detainees, began leaving Postville at 4 p.m. Monday, headed toward Waterloo. Each bus was escorted by two Iowa State Patrol cars, one in front and one in back.

The plant entrance remained blocked by ICE agents and state troopers.

The National Cattle Congress fairgrounds in Waterloo will serve as an intake center, said Barbara Gonzalez, an ICE spokeswoman.

The men will be housed at Estel Hall at the Cattle Congress and the women will be taken to local jails, she said.

It's unlikely anyone will remain at the Cattle Congress past Thursday, Gonzalez said. Federal officials have leased the fairgrounds through May 25.

'We are with you!'

'We are with you!'

When the chained gates at the Cattle Congress site opened to admit a bus of detainees at 8:15 p.m., the crowd of about 200 people screamed their support.

Some were in tears as they shouted "We are with you!" and "We are all equal!"

Police looked on during the protest. Waterloo Police Department Lt. M.W. McNamee said the department had protesters move across the street to the sidewalk in front of the fairgrounds.

"You can't be on the property here ... but you can be on the sidewalk," McNamee told the growing number of protesters. "Unfortunately there's not a lot of area where you can be. This is not conducive to have a vigil."

The protest wrapped up just before 10 p.m.

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Change in tactics

Immigration officials appeared committed to avoiding some of the criticism that followed the federal raids in December 2006 at six Swift & Co. meatpacking plants across the country, including one in Marshalltown. Those raids resulted in 1,297 arrests, including about 100 in Iowa.

Critics, including former Gov. Tom Vilsack, accused federal officials of violating the workers' Fourth Amendment rights against unreasonable searches and seizures. Federal agents also were criticized for separating parents from their children.

In Postville, ICE spokesman Harold Ort said that the children of anyone detained would be cared for, and that "their caregiver situation will be addressed.

"They were asked multiple times if they have any sole-caregiver issues or any child-care issues," he said.

Forty Agriprocessors workers were later released, with supervision, "on humanitarian grounds," said Dummermuth, the U.S. attorney.

"They assured us the kids were going to be taken care of," said Postville Mayor Robert Penrod.

Penrod said a majority of townspeople understand the plant's role in the Postville economy, while a small number would cheer the raid.

"There's people who hate the Hispanics, and there's people who don't like the Jews and would like to run them out of town," he said.

Tears at St. Bridget's

Frightened townspeople flocked to St. Bridget's Catholic Church.

"The families (there) are utterly engulfed in tears and are very frightened," said Sister Mary McCauley. "One young boy left school and came here because he knew his parents had been taken."

Craig Halverson of Griswold, the state director of the Minuteman Civil Defense Corps, a group that opposes illegal immigration, praised federal officials.

"Like everyone else, we are tired of people not enforcing the laws," he said. "It always makes us feel good when we see ICE going out and conducting a raid. We just feel that there should just be a lot more raids because it is known that there are thousands and thousands of illegal aliens in the state of Iowa."

The raid was the talk of the day at the Yeshiva of Northeast Iowa, a Jewish high school attended by about 50 students, many from out of state.

Students said they worried about the health of the meatpacking plant because it supports their school.

Abi Naparstek, 16, a student from Brooklyn, N.Y., said he was optimistic that the plant would remain open. He said people from the area recognize how vital it is to the economy.

"If it did close, it would be bad for everybody - Jews, non-Jews, everybody," he said.

If the plant closed, the students said, most of the Jews would leave town, because they would have no reason to stay.

Near the Agriprocessors plant, Bruce Stockman, owner of Best Place Auto Repair, leaned on his truck and watched the day's events unfold. Stockman said many of his customers work at the plant, and the raid could hurt his business.

Stockman, who worked briefly at the plant, said townspeople have mixed feelings about the immigrants.

"There's good ones, there's bad ones," he said. "You're going to have that anywhere."

Contributors: Ken Fuson, Jason Clayworth and Molly Hottle in Des Moines; Tony Leys in Postville; Jennifer Jacobs and Jerry Perkins in Waterloo; and Jane Norman in the Register's Washington, D.C., bureau.

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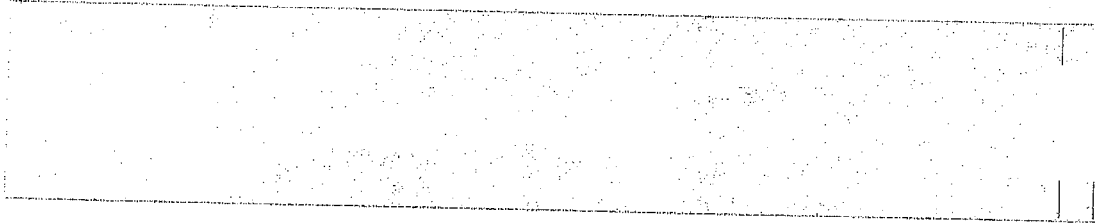


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		Case Activity Report U.S. Department of Labor Office of Inspector General Office of Labor Racketeering and Fraud Investigations				
Date of Event:	May 12, 2008	Region:	Chicago	Case No.:	55-3963-0006-PCJ	
Location:	Postville, Iowa	Subject/Title:	Operation Cedar Valley Junction	Case Agent:	(b) (7)(C)	
<input type="checkbox"/> Arrest <input checked="" type="checkbox"/> Search <input type="checkbox"/> Indictment <input type="checkbox"/> Conviction <input type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other:						

DETAILED SUMMARY:

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of Agriprocessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential visa fraud violations. Agriprocessors employs several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

PREVIOUSLY REPORTED:

None.

See Attachment	Press Clippings/Releases Press Agreements/Judgments	Yes	Dissemination Restricted To:	
Submitted By:	SA [REDACTED]		Date:	May 15, 2008

U.S. Department of Labor

Office of Inspector General
230 S. Dearborn St., Room 756
Chicago, IL 60604



May 6, 2008

MEMORANDUM FOR: SHIRLEY GARDNER
Regional Administrator
Wage and Hour Division

FROM: JAMES VANDERBERG
Special Agent-in-Charge
Chicago Region

SUBJECT: File Request

Pursuant to an official OIG criminal investigation, please provide this office with a copy of any and all investigative files or complaints concerning Agriprocessors, Postville, Iowa. A copy of the file(s) can be sent to SA (b) (7)(C) U.S. Department of Labor OIG, 1222 Spruce Street, Suite 2.102F, St. Louis, MO 63103, telephone Number [REDACTED]

If there are any questions, I can be reached at 312-886-6622. Thank you for your cooperation in this matter.

U.S. Department of Labor
Office of Inspector General
Office of Investigations



OIG Form 103 (OI - 1/98)

Investigation on: 5/6/08	At: St. Louis, MO	File: 55-3963-0006-PC
By: SA (b) (7)(C)		Date Prepared: 5/6/08

[Redacted]

Phone: (w) [Redacted]
(h) [Redacted]

On May 6, 2008 at approximately 7:55 am USDOL, OIG Special Agent [Redacted] contacted [Redacted] telephonically at his work telephone number. [Redacted] was advised of the identity of the agent and he provided the following information voluntarily.

[Redacted] has information regarding allegations against Agriprocessors Inc. [Redacted] stated that he doesn't trust the telephone at his place of employment. [Redacted] stated he would call SA [Redacted] back later on May 6, 2008 from a different telephone.

U.S. Department of Labor

Office of Inspector General
Office of Labor Racketeering
And Fraud Investigations
2300 Main Street, Room 1040
Kansas City, MO 64108



May 20, 2008

John G. Kavanagh
Special Agent-in-Charge
Federal Bureau of Investigation
10755 Burt Street
Omaha, Nebraska 68114-2000

Dear Mr. Kavanagh:

In accordance with the Memorandum of Understanding between the U.S. Department of Labor, Office of the Inspector General and the Department of Justice, this letter will serve as notification that our office has recently opened a fraud investigation on Agriprocessors, Inc. located in Postville, Iowa. Agriprocessors, Inc. is alleged to have committed a number of labor related violations including the hiring of illegal aliens, failure to pay unemployment insurance taxes, child labor violations and worker exploitation.

Please contact Special Agent **(b) (7)(C)** at **(b) (7)(C)** or me at 816-285-7241, if additional information is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Barcus". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Barcus
Assistant Special Agent-in-Charge



PREDICATION
UNITED STATES DEPARTMENT OF LABOR
OFFICE OF INSPECTOR GENERAL
OFFICE OF LABOR RACKETEERING AND FRAUD INVESTIGATIONS



Case Name:
 Operation Cedar Valley Junction

Date Received
 May 5, 2008

Violation Code:
 3963

Case Agent: SA (b) (7)(C)

Source: GA

Telephone: [REDACTED]

Synopsis:

The basis for this investigation is a request from the U.S. Attorney Office, Northern District of Iowa to provide assistance with the investigation of Agriprocessors, Inc. (Agriprocessors) in Postville, Iowa. Immigration and Customs Enforcement (ICE) is conducting an investigation of Agriprocessors in coordination with other agencies. There are allegations involving the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking and worker exploitation issues. Agriprocessors is one of the world's largest kosher meat producers. The company produces beef, poultry, turkey and lamb. The plant has been the center of controversies for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, OSHA records show twenty violations at Agriprocessors; seven serious violations. In 2001, EBSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

Agriprocessors, Inc. has received considerable media attention in the past 10 years for various alleged animal and human rights abuses.

Investigative Plan:

1. Conduct background research and review of open source information.
2. Interview past and present employees of Agriprocessors, Inc.
3. Interview USDOL, EBSA, Wage & Hour employees who have investigated prior alleged abuses by Agriprocessors, Inc.
4. Interview Iowa State Workforce agency employees.
5. Assist US Attorney's Office N/IA and ICE as necessary.

Refer to Attached Documents

Recommended Action

Open & Assign to SA [REDACTED]

Action (Supervisor)

Michael Barcus

Indexing Completed

Date May 5, 2008
 Name ASAC Barcus

Case No. 55-3963-0006-PC-J

Report of Interview

U.S. Department of Labor
Office of Inspector General
Office of Investigations



Page 1 of 1

OIG Form 103 (OI - 1/98)

Investigation on: 5/5/08	At: St. Louis, MO	File: 55-3963-0006-PC
--------------------------	-------------------	-----------------------

By: SA (b) (7)(C) [redacted]

Date Prepared: 5/5/08

[redacted]
USDOL, Wage & Hour Investigator
Cedar Rapids, Iowa
Phone: (w) [redacted]
(c) [redacted]

On May 5, 2008 at approximately 6:40 am USDOL, OIG Special Agent [redacted] contacted [redacted] telephonically. [redacted] was advised of the identity of the agent and he provided the following information voluntarily.

[redacted] is a USDOL, Wage & Hour Investigator assigned to the [redacted] office. [redacted] received information that a meat processing plant in Postville, Iowa (Agriprocessors, Inc) illegally employs minor children. Recently, [redacted] and Wage & Hour Investigator [redacted] (Des Moines, Iowa office) interviewed a former employee of Agriprocessors named [redacted] (LNU).

[redacted] is a Hispanic male and is believed to be a legal resident of the United States. [redacted] stated that he is married to a local US citizen of Postville, Iowa. [redacted] previously worked for Agriprocessors but now [redacted] in Postville. [redacted] and currently rents those apartments to aliens who work at Agriprocessors, Inc.

[redacted] stated the [redacted] may have close ties to the United Food and Commercial Workers Union. When [redacted] and [redacted] talked to [redacted] was accompanied by a union representative. [redacted] stated that he wanted the union representative there as a personal friend and that [redacted] is not directly involved in union affairs.

[redacted] alleged that Agriprocessors, Inc employs illegal aliens. [redacted] further alleged that some workers may be getting paid in cash. [redacted] stated that he suspects Human Trafficking violations may be occurring at Agriprocessors, Inc.

[redacted] stated that [redacted] motivation is to help the workers of Agriprocessors, whom [redacted] believes are being treated unfairly. [redacted] told [redacted] that he would pass [redacted] information on to appropriate authorities and that a government representative would be in contact with [redacted] soon.

30 pages

Referred to Wage Hour

Mike:

Several weeks ago, I was asked by my National Office to contact Scott Rosenberg at (b) (6) in regards to a Federal Inspection at a plant in Iowa. Scott is a freelance writer and asked me if OSHA had a compliance officer enter the Agriprocessors facility in Postville, Iowa and give them a clean bill of health. I informed him that we had not and that the State had not had a person in that facility either. During our conversation I told Scott that I would put the hammer down on anyone we caught impersonating an OSHA Compliance Officer.

On February 7, 2007 (around that time), I received a call from (b) (7)(C) demanding that I retract my statement. During that conversation, (b) (7)(C) demanded that the person that visited the facility was indeed an OSHA Official. He told me that the person was a friend of his and was doing him a favor by visiting the plant as a consultant. He assured me that the CSHO did not use his credentials or even claim to be an OSHA Official, and was not paid for his consultation. He did tell me that he, (b) (7)(C) had provided a resume which stated that the person was an official OSHA employee.

Rabbi Asher Zeilingold is quoted as saying that the "OSHA Official was not working in an official capacity when he made his visit, rather as "a private consultant. He had previously stated that OSHA had given them a clean bill of health.

My question is: Is it possible to get the name of this CSHA from (b) (7)(C) or the Rabbi.

NOTE: Thei establishment must be the center of attention for an internal religious battle over the proper way to treat animals and people. There may be other agencies that have difficulty with this facility.

Chuck



MSB5353 (logout)

Current Allegation: 37077

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Tracking Number: 37077
Date Entered: 02/13/2007
Date Received: 02/12/2007
Date Due:
Status: Closed
Assigned Agent:
Manager: BARCUS, MICHAEL
Region: 53 - KANSAS CITY
DOL: 12 - OSHA
Agency:
Program: 01 - EMPLOYEE INTEGRITY
Method: 1 - Telephone

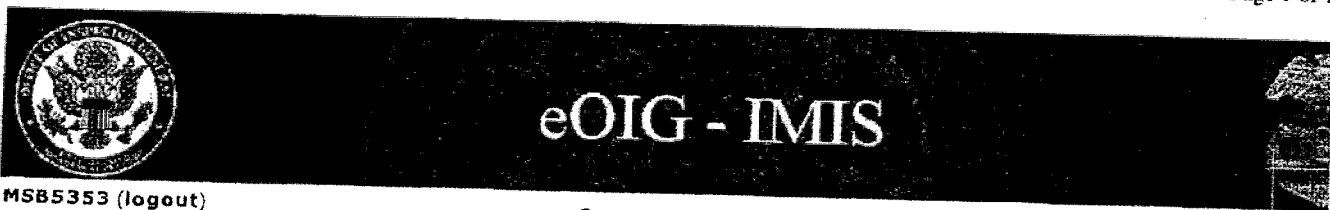
Source: DL - Department of Labor

Criminal Activity: GOV - Gov Employee Related

Title: AgriProcessors - Unauthorized Inspection

Synopsis: [REDACTED] was asked by OSHA's National Office to contact Scott Rosenberg in regard to a federal inspection that was conducted at a kosher packing plant in Iowa. Rosenberg is a freelance writer. Rosenberg asked about whether OSHA had conducted an inspection at AgriProcessors in Postville, Iowa. [REDACTED] advised that no inspection had been done by OSHA. [REDACTED] was told by [REDACTED] that a federal OSHA compliance and safety officer conducted an inspection as a favor. The inspector was recruited by the plant; was not working in an official capacity and did not represent themselves as being from OSHA. There is apparently some controversy among the Jewish community with the plant and the manner in which animals are slaughtered.

E-Mail Webmaster



MSB5353 (logout)

Current Allegation: 37077

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Workflow History

Step	Status	Start	End Owner	Caller	Caller Comment
Rejected Allegation Closed -		02/13/2007	SPK5353	MSB5353	After reviewing the allegation, it has been determined that investigation by the OIG is not warranted. [REDACTED] OSHA, will be advised of this decision.
New Case Rejected					

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Zero File

E-Mail Webmaster

Office of Inspector General
Office of Labor Racketeering and Fraud Investigations

Contains 6(E) Material



No Unauthorized Dis.
Only the persons listed

Date
Date

Name

* See inside cover

Contains
INFO -
SS

Office of Inspector General
Office of Labor Racketeering and Fraud Investigations

Contains 6(E) Material



No Unauthorized Dis.
Only the persons liste

Date

Name

* See inside cover

Contains 6(E)
INFO - GS

PF
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SERIAL #	DESCRIPTION	DOCUMENT DATE
69	AVSA GJ LETTER TO CASE AGENT	11/12/08
70	DEAFI GJ LIST TO AVSA	10/29/08
71	DIGI 103	11/25/08
72	Digital copy of	12/22/08
73	INTF G3	1/13/09
74	ALTHOUSE PLEA AGREEMENT	10/28/08
75	ALTHOUSE INFORMATION	10/28/08
76	FREUND INFORMATION	12/14/08
77	FREUND PLEA NEWSPAPER ARTICLE	12/10/08
78	HEARING MINUTES FROM FREUND PLEA	12/10/08
79	EMAIL FROM SA re: CASE Status	2/11/09
80	FREUND PLEA AGREEMENT	12/10/08
81	CAC REPORT 12-10-08	12/10/08
	File Review - MSP	3/10/09
82	IMIS CASE DUMP	3/15/09
83	Criminal Res. re: Freund	3/15/09
84	CAR INDICTMENT	4/15/09
85	INDICTMENT	4/15/09
86	ARREST WARRANT	4/15/09
87	Criminal Results	4/15/09
88	Court order charge dismissed Althouse	5/6/09
89	Criminal Results - Dismissal	7/13/09
90	CAC Report	7/13/09
91	Criminal Results Plea	4/10/09
92	Information Doc - Plea	8/10/09
93	CAC Report Plea	8/10/09
	File Review - MSP	9/9/09
94	IMIS CASE File Dump	

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File Information

File Number: 55-3963-0006-PC-1
 Region/Office: 00 - ST LOUIS
 DOL Agency: 00 - US
 Program: 83 - CIRCUMVENTION
 Case Type: P - Program Fraud
 File Type: C - Case

IG Priority: No Service Provider: No Alien Certification: No
 Grand Jury Yes: Identity Theft: No Organized Crime: No

Date Opened: 5/5/2008
 Date Closed: 8/24/2010
 Source: OA - Other Government Agency

Area of Activity

Crime Group

Unit

Emergency Code: E - N/A

Lead Agent: [REDACTED]

Date Assigned: 5/5/2008

City: Postville, Iowa

State: Iowa

Title: OPERATION CEDAR VALLEY LUNCHEON

Synopsis: The basis for this investigation is a request from the U.S. Attorney Office, Northern District of Iowa to provide assistance with the investigation of Agriprocessors, Inc. (Agriprocessors) in Postville, Iowa. Immigration and Customs Enforcement (ICE) is conducting an investigation of Agriprocessors in coordination with other agencies. There are allegations involving the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking and worker exploitation issues. Agriprocessors is one of the world's largest kosher meat producers. The company produces beef, poultry, turkey and lamb. The plant has been the center of controversy for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, OSHA records show twenty violations at Agriprocessors; seven serious violations. In 2001, EBSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

Criminal Activities: FID - Fraud (General)

IDENT - Identity Theft

Violations: 18 USC 1028 & USC 1324

Prosecutor

District

Allegation

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e-Hall Webmaster



Subject Agriprocessors, Inc.	Violation Character	File No. 55-3963-0006-PCJ	
	18USC1546, 8USC1324, 18USC1028A, 18USC1014, 18USC371	Report Type: Closing Report	
		By:	SA [REDACTED]
		At:	St. Louis, Missouri
		Date:	August 10, 2010
		Approved By:	[Signature]
		Reviewed By:	Michael Barone

Distribution

OIG Form 110 (OI - 1/98)

1) Synopsis

The basis for this investigation is a request from the U.S. Attorney Office, Northern District of Iowa to provide assistance with the investigation of Agriprocessors, Inc. (Agriprocessors) in Postville, Iowa. Immigration and Customs Enforcement (ICE) conducted an investigation of Agriprocessors in coordination with other agencies. There were allegations involving the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking, worker exploitation issues, bank fraud and money laundering. According to media accounts, during the period April 2001 to 2006, OSHA records show twenty violations at Agriprocessors; seven serious violations. In 2001, EBSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

Due to the complex nature of the investigation, the OLRFI focused efforts on the employment of aliens and visa fraud. The OLRFI was not directly involved in investigating the bank fraud allegations.

Directly attributed to OLRFI efforts were the September 2008 indictments of Karina Freund and Laura Althouse for violations of 8 USC § 1324 and the April 2009 indictment of Toby Bensasson for violating 18 USC § 1546. In a plea bargain for the bank fraud allegations, Bensasson pleaded guilty to 18 USC § 371, Conspiracy and 18 USC § 1041, Bank Fraud. Under the terms of the plea agreement [REDACTED]

2) Reason for Closing

This case is being closed due to completion of prosecution and judicial action. All ancillary records and evidence have been properly disposed of.

3) Nature of the Scheme

Agriprocessors officials and employees facilitated the company's use of illegal aliens by assisting the aliens in completing falsified employment documents after obtaining false identification documents. Senior company officials manipulated the company's financial records in order to obtain fraudulent

bank loans. The company comptroller failed to pay prevailing wages and falsified the visa application for an H1B beneficiary employed at the company.

4) Referrals.

No referrals.

Case Closing Checklist/Case Management Review

Case Title: Agri-processors Inc.

Case No.: 55-3963-0006-PCJ

- | | | | |
|--|----------------------------------|---|----------------------------------|
| 1. Does the OIG-101 Predication Form cite title and code for violation(s) and justification for OLRFI involvement? | <input checked="" type="radio"/> | N | |
| 2. FBI Notification Letter? | <input checked="" type="radio"/> | N | N/A |
| 3. OI-100B – Blue File Folder? | <input checked="" type="radio"/> | N | N/A |
| 4. Letter to Program Official/Regional Administrator? | Y | N | <input checked="" type="radio"/> |
| 5. Serialized Table of Contents for Each Volume containing Adequate Descriptions? | <input checked="" type="radio"/> | N | |
| 6. All documents serialized on lower right hand corner? | <input checked="" type="radio"/> | N | |
| 7. Do the Serialized Entries Correspond to Table of Contents? | <input checked="" type="radio"/> | N | |
| 8. Grand Jury Information – 6E Red Folder? | <input checked="" type="radio"/> | N | N/A |
| 9. Grand Jury Information – Documents marked Grand Jury (see IN 08-0300)? | <input checked="" type="radio"/> | N | N/A |
| 10. Grand Jury Information – Access listed on front cover? | <input checked="" type="radio"/> | N | N/A |
| 11. All OIG-103 Report of Interviews maintained according to regulations (see IN 01-0100)? | <input checked="" type="radio"/> | N | N/A |
| 12. Are OIG 103 rough notes initialed by Special Agent, case number placed on document and secured in evidence envelope? | <input checked="" type="radio"/> | N | N/A |
| 13. All Memorandums to File in proper format? | <input checked="" type="radio"/> | N | |
| 14. Are Surveillance Logs used to document surveillance activity (Form OIG-14)? | Y | N | <input checked="" type="radio"/> |
| 15. All OIG 110-Reports maintained according to regulations (see IN 01-0100)? | <input checked="" type="radio"/> | N | N/A |
| 16. Are all Subjects properly indexed with complete criminal histories (For example, you may include | | | |

- | | | | |
|--|----------------------------------|---|----------------------------------|
| DMV Photos, NCIC, Choice Point, R-84s, and Fingerprint cards)? | <input checked="" type="radio"/> | N | N/A |
| 17. Does the case file contain a detailed closing OIG-110 report summarizing case and findings in appropriate format (Synopsis, Reason for Closing, Nature of Scheme and Referrals outlining suggested administrative improvement and agency acknowledgement of recommendation)? | <input checked="" type="radio"/> | N | N/A |
| 18. Case is properly closed out in OITS by using the "Case Closing Screens?" | <input checked="" type="radio"/> | N | |
| 19. Does the case have a copy of the OITS "File Information" Screen indicating date case was closed? | <input checked="" type="radio"/> | N | N/A |
| 20. Criminal cases - does the file contain court documents to support indictment, conviction, and judgment order? | <input checked="" type="radio"/> | N | N/A |
| 21. Civil Case - does the file contain court documents to support suits and judgments? | Y | N | <input checked="" type="radio"/> |
| 22. Administrative cases - does the file contain documents to support referrals, forfeitures, recoveries, cost savings? | Y | N | <input checked="" type="radio"/> |
| 23. If declined for prosecution, does the case contain a declination letter or a memo to file referencing date of conversation with AUSA and citing reason(s) for declination? | Y | N | <input checked="" type="radio"/> |
| 24. Has all evidence been properly recorded in "evidence log" with a corresponding OIG 111 Evidence Custody Form? | <input checked="" type="radio"/> | N | N/A |
| 25. Has all evidence been properly disposed of (e.g. documentation signed by both parties verifying items returned or destroyed)? | <input checked="" type="radio"/> | N | N/A |
| 26. Evidence Envelopes properly sealed with agents signature over seal and placed in back of file? | <input checked="" type="radio"/> | N | N/A |
| 27. Are Case Activity Reports (CAR) contained in case file for significant activity on case, including press releases? | <input checked="" type="radio"/> | N | N/A |
| 28. If Consensual Monitoring occurred, proper approvals are included in the case file (see IN 08-0800)? | Y | N | <input checked="" type="radio"/> |

- | | | | |
|--|----------------------------------|---|----------------|
| 29. Consent Forms and Warnings included in case file
(Examples would include Miranda, Kalkines, Consent Searches, etc)? | Y | N | N/A |
| 30. If you have Federal Tax Information, is it being held in accordance to policy and procedure (see IN 08-0200)? | Y | N | N/A |
| 31. Federal Tax Information is segregated from case file? | Y | N | N/A |
| 32. Arrest Warrants - Case contains copies of warrant(s) and affidavit(s) in support of warrant? | <input checked="" type="radio"/> | N | N/A |
| 33. Search Warrants - Case contains copies of warrant(s) and affidavit(s) in support of warrant? | <input checked="" type="radio"/> | N | N/A |
| 34. Search Warrants - Does the case contain copies of the inventories and court returns? | <input checked="" type="radio"/> | N | N/A |
| 35. Confidential expenditure documentation (e.g. requests for utilization of funds and transaction reports)? | Y | N | N/A |
| 36. If undercover expenditures utilized, does case contain appropriate documentation (see IN 08-0500)? | Y | N | N/A |
| 37. Has case-closing certification been completed? | <input checked="" type="radio"/> | N | |

CASE CLOSING CERTIFICATION

Following completion of the case closing checklist, I, Special Agent _____, certify case file 5-3165-POM-AJ has been closed in accordance to OIG-CI DEJ Policy and Procedure.

(b) (7)(C)

Special Agent Signature

Date

8/10/10

Reviewed by:

Michael Baran

Assistant Special Agent-in-Charge

Date

8/11/10

Approved:

Special Agent-in-Charge

Date

8/17/10

From: Origin ID: CP5A (314) 539-3952
US Mail Ops
1227 Spruce Street
Suite 2 102F
St Louis, MO 63103



Ship Date: 19AUG10
ActWgt: 1.0 LB
CAD: 4515593INET3062

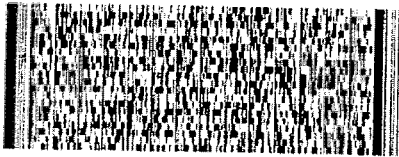
Delivery Address Bar Code



Ref # return records
Invoice #
PO #
Dept #

SHIP TO: (402) 321-2525
BILL SENDER

Postville, IA 52162



TRK# 7989 6147 9010
0201

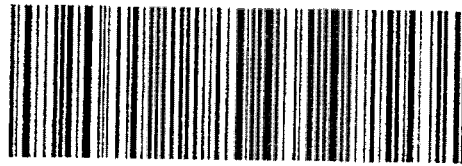
TUE - 24 AUG PM
EXPRESS SAVER
R55

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IA-US

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0201084721

After printing this label:

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(b) (7)(C) - OIG

From: [REDACTED] attorney@gmail.com]
Sent: Wednesday, August 18, 2010 4:59 PM
To: [REDACTED]
Subject: Re: [REDACTED]

[REDACTED] is still getting mail at [REDACTED]

On Wed, Aug 11, 2010 at 12:15 PM, [REDACTED] - OIG [REDACTED] wrote:

Thanks [REDACTED]

[REDACTED]

From: [REDACTED]@gmail.com [mailto:[REDACTED]@gmail.com] On Behalf Of [REDACTED]
Sent: Wednesday, August 11, 2010 10:08 AM
To: [REDACTED] - OIG
Subject: Re: [REDACTED]

[REDACTED]

[REDACTED] has moved but a relative still works for the Co and I should know in a couple of days an address for you.

On Tue, Aug 10, 2010 at 2:41 PM, [REDACTED] - OIG [REDACTED]@oig.dol.gov wrote:

Hi [REDACTED]

Per our phone conversation today, I am requesting a shipping address in order to return the original visa application documents and paycheck stubs that [REDACTED] was gracious enough to allow us to use last year. Please forward an appropriate address as soon as possible.

8/19/2010

Thank you for your assistance.

[REDACTED]

Special Agent

USDOL, OIG, OLRFI

[REDACTED]

8/19/2010

Evidence Custody

U.S. Department of Labor
Office of Labor Racketeering
and Fraud Investigations



1. Case Title Cedar Valley Junction	2. Case Number 55-3863-0006-PCJ	3. Date November 20, 2008	4. Book Page 1-14
--	------------------------------------	------------------------------	----------------------

5. Office Location (Complete Address)
U.S. DOL/OIG-OLRF
1222 Spruce St., Rm. 2.102F
St. Louis, MO 63103

6. Description of Article
b) (7)(C)
Received on November 20, 2008, from:

7a. Received From [Redacted]	7b. Taken From (Location)	7c. Found at
8a. Received by (Print or Type) SA [Redacted]	8b. Signature [Redacted]	8. Witness (Signature) [Redacted]

10a. Date	10b. Chain of Custody	10c. Purpose of Custody Chain
11/24/08	Received by (Signature) [Redacted]	Turned over to case agent
11/25/08	Received by (Signature) [Redacted]	TURNED IN TO EVIDENCE LOCKER
8/19/10	Received by (Signature) [Redacted]	Removed from Evidence and returned to owner

Continue on Page 2

10a. Date	10b. Chain of Custody	10c. Purpose of Custody Chain
	Received by (Signature)	
	Print Name and Title	
	Received by (Signature)	
	Print Name and Title	
	Received by (Signature)	
	Print Name and Title	

11. Final Disposal Authority Item(s) described in #8 is (are) no longer required as evidence and may be disposed of in the following manner:

Release to owner or other
 Destroy (See below)
 Other (Specify)

Contacted [redacted] AHJ via telephone and email 8/11/10.
8/12/10 shipped FEDEX to owner [redacted] verified address via telephone.

SA (b) (7)(C)

Name of Authorizing Official Signature Date

SA [redacted] [redacted] 8/14/10

12. Destruction

Name of Authorizing Official Signature Date

4 pages

Referred to DHS ICE

3 pages

Referred to USMS

3 pages

Referred to DHS ICE

3 pages

Referred to USMS

3 PAGES REFERRED to BOP

3 pages

Referred to USMS

55-3963-0006-PC-1
03/15/2010

Case Information:

Title: OPERATION CEDAR VALLEY JUNCTION
Date Opened: 03/05/2008
Criminal Activity: IDT FRM
Violations: 18 USC 1628 & USC 1324
Last Serial Number in File: 191
Total Hours (period):
Total Hours:
Total Amount of Expenditures:
Joint Agencies: ICE

Index Information:

LAURA ALTHOUSE (SUBJECT)

TOBY BENASSON (SUBJECT)

(WITNESS)

(WITNESS)

KARINA FREUND (SUBJECT)

SSN: [REDACTED]

SHOLOM RUBASHKIN (SUBJECT)

SSN: 999-99-9999

(SUBJECT)

ER:

Case Opening Synopsis:

The basis for this investigation is a request from the U.S. Attorney Office, Northern District of Iowa to provide assistance with the investigation of Agriprocessors, Inc (Agriprocessors) in Postville, Iowa. Immigration and Customs Enforcement (ICE) is conducting an investigation of Agriprocessors in coordination with other agencies. There are allegations involving the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking and worker exploitation issues. Agriprocessors is one of the world's largest kosher meat producers. The company produces beef, poultry, turkey and lamb. The plant has been the center of controversies for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, OSHA records show twenty violations at Agriprocessors; seven serious violations. In 2001, EBSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

Case File Review Synopsis:

For the period ending March 15, 2010, in December 2009, former Agriprocessors Inc HR employee Laura Althouse was sentenced for her role in the hiring of illegal aliens at the Postville, Iowa meatpacking plant. In February 2010, former Agriprocessors Inc HR employee Karina Freund was sentenced for her role in the hiring of illegal aliens at the Postville, Iowa meatpacking plant. OLRFI investigative efforts in this case have concluded.

Criminal Results:

# Indictments: 4	# Convictions: 3	# Dismissals: 1
# Incarcerations: 0	Months Incarcerated: 7	
# on Probation: 2	Months Probation: 36	
Fines: 110	Forfeit: 0	Restitutions: 0
Other: 0	# Debarments: 0	Years Debarred: 0

Civil Results:

# Complainants Filed: 0	# Consents Signed: 0	# Judgments: 0
Damages:	Penalties:	Forfeitures:
Fines:	Seriousness:	Other:
# Debarments: 0	Years Debarred:	

Administrative Results:

# Cases Referred: 0	# Cost Efficiencies: 0
---------------------	------------------------

Amount of Recoveries (Less Cost Efficiencies)

Techniques:

May 6, 2008 Examination of Documents [REDACTED]
IN MAY 2008 I RECEIVED AND EXAMINED CASE FILE RECORDS FROM USDOL WAGE & HOUR DIVISION'S CHILD LABOR INVESTIGATION ON AGRIPROCESSORS
May 12, 2008 Interviewing [REDACTED]
Interviewed legal resident alien and illegal alien employees of Agriprocessors Inc.
May 19, 2008 Search Warrants [REDACTED]
Executed federal search warrant at the offices of Agriprocessors Inc.
Jan 13, 2009 Grand Jury Subpoena [REDACTED]
ON [REDACTED] TESTIFIED BEFORE CJ RE THE CIRCUMSTANCES OF [REDACTED]

Investigative Results Obtained Since the Last Review:

In this period 2 subjects were sentenced for their roles in the scheme to employ illegal aliens

Objectives for the Next 6 Months:

In the next reporting period this case will be closed. All OLRFI investigative efforts have concluded due to completion of prosecution.

Problems Encountered:

Geographical limitations hindered effective communications with the lead case agency.

Guidance:

Concur with objective of closing case.

United States District Court

NORTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE

KARINA PILAR FREUND

Case Number: CR 08-1324-1-JSS

USM Number: 10732-029

Mark R. Brown

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 1 of the Information filed on 12/09/2008
- pleaded nolo contendere to count(s) _____
which was accepted by the court.
- was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense</u>	<u>Count</u>
8 U.S.C. §§ 1324a(a)(1)(A) and 1324a(f)(1), and 18 U.S.C. § 2	Aiding and Abetting a Pattern or Practice of Knowingly Employing Undocumented Aliens	May 2008	1

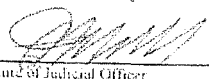
The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) 1 and 2 of the Second Superseding Indictment are dismissed on the motion of the United States.

IT IS ORDERED that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material change in economic circumstances.

February 4, 2010

Date of Imposition of Judgment


Signature of Judicial Officer

Jon S. Scoles
U.S. Magistrate Judge

Name and Title of Judicial Officer

February 5, 2010
Date

DEFENDANT: **KARINA PILAR FREUND**
CASE NUMBER: **CR 08-1324-1-JSS**

Judgment—Page 2 of 5

PROBATION

The defendant is hereby sentenced to probation for a term of: **1 year on Count 1 of the Information**

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **KARINA PILAR FREUND**
CASE NUMBER: **CR 08-1324-1-JSS**

Judgment—Page 3 of 5

SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the U.S. Probation Office:

None

Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

Defendant

Date

U.S. Probation Officer/Designated Witness

Date

DEFENDANT: KARINA PILAR FREUND
CASE NUMBER: CR 08-1324-1-JSS

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TOTALS Assessment Fine Restitution
 \$ 10 (paid) \$ 0 \$ 0

- The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case*(AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS \$ _____ \$ _____

- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: KARINA PILAR FREUND
CASE NUMBER: CR 08-1324-1-JSS

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A Lump sum payment of \$ _____ due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

The \$10 special assessment was paid on May 19, 2009, receipt # IAN110002121.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Agriprocessors human resource employee sentenced to probation

Posted on Feb 05, 2010 by Trish Mehaffey.

A former Agriprocessors human resource employee was sentenced today in U.S. District Court to one year probation for helping to hire illegal workers at the meatpacking plant.

Karina Freund, 31, pleaded guilty in December 2008 to one misdemeanor count of aiding and abetting a pattern or practice of hiring undocumented immigrants. Freund, according to the charge, aided the unlawful employment of illegal workers with knowledge that the workers were not authorized to work in the United States.

The charge stems from the May 2008 immigration raid at the Postville plant where more than 389 illegal workers were arrested and charged.

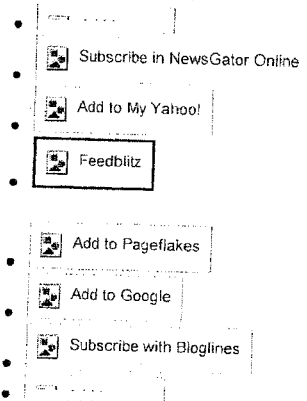
Related Articles:

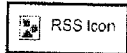
- Former Agriprocessors worker gets probation – *December 4, 2009*
- Former Agriprocessors supervisor's trial to start in two weeks – *January 7, 2010*
- Judge releases remaining material witnesses in Agriprocessors case – *January 15, 2010*
- Ex-Agriprocessors official faces charges – *September 21, 2009*

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Comments by IntenseDebate

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Case Activity Report
 U.S. Department of Labor
 Office of Inspector General
 Office of Labor Racketeering And Fraud Investigations



Date of Event:	February 5, 2010	Region:	Chicago	Case No.:	55-3963-0006-PCJ
Location:	Cedar Rapids, Iowa	Subject Title:	Operation Cedar Valley Junction	Case Agent:	(b)(7)(C)
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input type="checkbox"/> Indictment <input type="checkbox"/> Conviction <input checked="" type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other					

DETAILED SUMMARY:

On February 5, 2010 former Agriprocessors Inc, Human Resources employee Karina Freund was sentenced for her role in the hiring of illegal aliens at the Postville, Iowa meatpacking plant. Freund was sentenced to 12 months probation and a special assessment fee of \$10.

PREVIOUSLY REPORTED:

On December 3, 2009 Agriprocessors Inc, Human Resources former employee Laura Althouse was sentenced for her role in the hiring of illegal aliens at the Postville, Iowa meatpacking plant. Althouse was sentenced to 24 months probation and a special assessment fee of \$100.

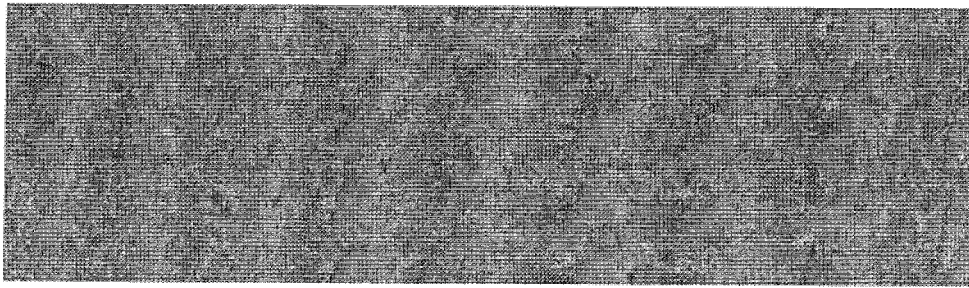
On August 4, 2009 Yomotov "Toby" Bensasson pleaded guilty in the Northern District of Iowa to one count of 18 USC 371 Conspiracy. Bensasson admitted that he overstated the value of collateral for the purpose of influencing an FDIC insured institution upon requests for advances on a loan, in violation of 18 USC 1014. Under the terms of the agreement, [REDACTED]

In July 2009 Yomotov "Toby" Bensasson, Comptroller for Agriprocessors, Inc returned to the United States. [REDACTED]

[REDACTED]


See Attachment	Press Clippings/Releases Please Attachments if Using for	Yes	Dissemination Restricted To:	
Submitted By:	SA [REDACTED]		Date:	2/05/10 OIG-15 (OLRF) (2/03)

99



As Bensasson is currently not in the U.S., the indictment was sealed.

On December 10, 2008 Karina Freund pleaded guilty via Criminal Information to one misdemeanor count of aiding and abetting the hiring of undocumented aliens, in violation of 8 USC 1324a(a)(1)(A), 8 USC 1324a(f)(1) and 18 USC 2. Freund worked in the Human Resources Department of Agriprocessors, Inc.

On October 29, 2008 former Human Resource employee of Agriprocessors, Inc. Laura Althouse pleaded guilty to one count of 8 USC 1324 (Conspiring to Harbor Undocumented Aliens) and one count of 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft).  The plea agreement was filed under seal.

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. Laura Althouse was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). Karina Freund was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

ENTRY SHEET

(b)(7)(C)

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Agriprocessors Inc		
Defendant: Freund (Last)		Karina (First)		
Date Presented: 5/11/08	Presented To: F	District: N/A	Exception:	Sealed:
Date Declined:	Date Arrested: 9/9/08			
Date Charged: 9/9/08	Dates Superseded:			
Charges 8 USC 1324	Type I	Disp CV	Defer:	Outcome Code: CV Outcome Date: 12/10/08 Docket#: CR 08-1324 LRR Sentenced/Pre-Trial Date: 2/5/10 ✓
REMARKS/COMMENTS:			Inc (Mos): Prob (Mos): 12 months ✓ Fines: \$10 ✓ Comm. Srvc Hrs: <i>2-8-10</i> Forfeits: Rest: OTHER: DEBARMENT (Y/N) 29LSC504: (Y/N) 29USC1111: (Y/N)	

ENTRY SHEET

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Agriprocessors Inc	
Defendant: Althouse (Last)		Laura (First)	
Date Presented: 5/11/08	Presented To: F	District: N/1A	Exception: Sealed:
Date Declined:	Date Arrested: 9/9/08		
Date Charged: 9/9/08	Dates Superseded:		
Charges	Type	Disp	Defer
8 USC 1324	I	CV	
18 USC 1546	I	DS	
18 USC 1028A	I	DS	✓
REMARKS/COMMENTS:		Outcome Code: CV Outcome Date: 10/29/08 Docket#: 08-MJ-325 Sentenced/Pre-Trial Date: 12/03/09 ✓ Inc (Mos): Prob (Mos): 24 MONTHS ✓ Fines: \$100 ✓ Comm. Srvc Hrs: <i>1-15-2010</i> Forfeits: Rest: OTHER: DEBARMENT (Yrs): 29USC504: (Y/N) 29USC1111: (Y/N)	

ENTRY SHEET

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Agriprocessors Inc	
Defendant: Althouse (Last)		Laura (First)	
Date Presented: 5/11/08	Presented To: F	District: N/A	Exception: Sealed:
Date Declined:	Date Arrested: 9/9/08		
Date Charged: 9/9/08	Dates Superseded:		
Charges	<u>Type</u>	<u>Disp</u>	<u>Defer</u>
8 USC 1324	I	CV	
18 USC 1546	I	DS	
18 USC 1028A	I	DS	
Outcome Code: CV Outcome Date: 10/29/08 Docket#: 08-MJ-325 Sentenced/Pre-Trial Date: 12/03/09			
Inc (Mos): Prob (Mos): 24 MONTHS Fines: \$100 Comm. Srvc Hrs:			
Forfeits: Rest:			
OTHER:			
DEBARMENT (Yrs):			
29USC504: (Y/N) 29USC1111: (Y/N)			
REMARKS/COMMENTS:			



Case Activity Report
 U.S. Department of Labor
 Office of Inspector General
 Office of Labor Racketeering And Fraud Investigations



Date of Event:	December 3, 2009	Region:	Chicago	Case No.:	55-3963-0006-PCJ
Location:	Cedar Rapids, Iowa	Subject/Title:	Operation Cedar Valley Junction	Case Agent:	(b) (7)(C)
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input type="checkbox"/> Indictment <input type="checkbox"/> Conviction <input checked="" type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Deportment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other:					

DETAILED SUMMARY:

On December 3, 2009 Agriprocessors Inc, Human Resources former employee Laura Althouse was sentenced for her role in the hiring of illegal aliens at the Postville, Iowa meatpacking plant. Althouse was sentenced to 24 months probation and a special assessment fee of \$100.

PREVIOUSLY REPORTED:

On August 4, 2009 Yomotov "Toby" Bensasson pleaded guilty in the Northern District of Iowa to one count of 18 USC 371 Conspiracy. Bensasson admitted that he overstated the value of collateral for the purpose of influencing an FDIC insured institution upon requests for advances on a loan, in violation of 18 USC 1014. Under the terms of the agreement,

[REDACTED]

In July 2009 Yomotov "Toby" Bensasson, Comptroller for Agriprocessors, Inc returned to the United States.

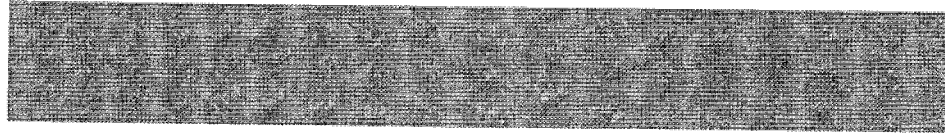
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

See Attachment	Press Clippings/Releases Plea Agreements/Judgments	Yes	Dissemination Restricted To	
Submitted By:	SA [REDACTED]		Date	1/08/10 OIG-15 (OLRF) 12/03



As Bensasson is currently not in the U.S., the indictment was sealed.

On December 10, 2008 Karina Freund pleaded guilty via Criminal Information to one misdemeanor count of aiding and abetting the hiring of undocumented aliens, in violation of 8 USC 1324a(a)(1)(A), 8 USC 1324a(f)(1) and 18 USC 2. Freund worked in the Human Resources Department of Agriprocessors, Inc.

On October 29, 2008 former Human Resource employee of Agriprocessors, Inc, Laura Althouse pleaded guilty to one count of 8 USC 1324 (Conspiring to Harbor Undocumented Aliens) and one count of 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). [REDACTED] The plea agreement was filed under seal.

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. Laura Althouse was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). Karina Freund was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

United States District Court

NORTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE

LAURA LOUISE ALTHOUSE

Case Number: CR 08-1323-1-LRR

USM Number: 10731-029

Ward A. Rouse
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 1 of the Information filed on 10/28/2008
- pleaded nolo contendere to count(s) _____
which was accepted by the court.
- was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense</u>	<u>Count</u>
8 U.S.C. §§ 1324(a)(1)(A)(iii), 1324(a)(1)(A)(v)(I), and 1324(a)(1)(B)(i)	Conspiracy to Harbor Undocumented Aliens for Financial Gain	05/12/2008	1

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) 1 and 2 of the Indictment is/are dismissed on the motion of the United States.
Count 2 of the Information was dismissed pursuant to an Order filed on 05/06/2009, Document No. 197.

IT IS ORDERED that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material change in economic circumstances.

December 3, 2009

Date of Imposition of Judgment

Linda R. Reade
Signature of Judicial Officer

Linda R. Reade
Chief U.S. District Court Judge

Name and Title of Judicial Officer

December 3, 2009
Date

DEFENDANT: LAURA LOUISE ALTHOUSE
CASE NUMBER: CR 08-1323-1-LRR

Judgment--Page 2 of 5

PROBATION

The defendant is hereby sentenced to probation for a term of: 2 years on Count 1 of the Information.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: LAURA LOUISE ALTHOUSE
CASE NUMBER: CR 08-1323-1-LRR

Judgment -- Page 3 of 5

SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the U.S. Probation Office:

None

Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the condition of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

Defendant _____

Date _____

U.S. Probation Officer/Designated Witness _____

Date _____

DEFENDANT: LAURA LOUISE ALTHOUSE
 CASE NUMBER: CR 08-1323-1-LRR

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100 (paid)	\$ 0	\$ 0

- The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case*(AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____	\$ _____
--------	----------	----------

- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: LAURA LOUISE ALTHOUSE
CASE NUMBER: CR 08-1323-1-LRR

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A Lump sum payment of \$ _____ due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
 The \$100 special assessment was paid on November 10, 2008, receipt # IAN110000887.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

55-3963-0006-PC-J
09/15/2009

Case Information:
Title: OPERATION CEDAR VALLEY JUNCTION
Date Opened: 05/05/2008
Criminal Activity: IDT FRD
Violations: 18 USC 1028 8 USC 1324
Last Serial Number in File: 22
Total Hours (period):
Total Hours:
Total Amount of Expenditures:
Joint Agencies: ICT

Index Information:
LAURA AL THOUSE (SUBJECT)
SSN: [REDACTED]

TOBY BENSASSON (SUBJECT)
SSN: [REDACTED]

[REDACTED] (WITNESS)
SSN: [REDACTED]

[REDACTED] (WITNESS)
SSN: [REDACTED]

KARINA EREJIND (SUBJECT)
SSN: [REDACTED]

SHOLOM RUBASHEIN (SUBJECT)
SSN: [REDACTED]

(SUBJECT)
EIN: [REDACTED]

Case Opening Synopsis:

The basis for this investigation is a request from the U.S. Attorney Office, Northern District of Iowa to provide assistance with the investigation of Agriprocessors, Inc (Agriprocessors) in Postville, Iowa. Immigration and Customs Enforcement (ICE) is conducting an investigation of Agriprocessors in coordination with other agencies. There are allegations involving the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, humane trafficking and worker exploitation issues. Agriprocessors is one of the world's largest kosher meat producers. The company produces beef, poultry, turkey and lamb. The plant has been the center of controversies for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, OSHA records show twenty violations at Agriprocessors, seven serious violations. In 2001, EBSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

Case File Review Synopsis:

FOR THE PERIOD ENDING SEPTEMBER 15, 2009, IN APRIL 2009 YOMOTOV "TOBY" BENSASSON WAS INDICTED FOR VIOLATIONS OF 18 USC 1546 VISA FRAUD. THE INDICTMENT WAS BASED ON OLRFI'S INVESTIGATION OF AGRIPROCESSORS INC. [REDACTED] BENSASSON, CHIEF FINANCIAL OFFICER OF AGRIPROCESSORS INC. IS AN ISRAELI CITIZEN AND WAS NATURALIZED IN THE UNITED STATES AT THE TIME OF THE INDICTMENT. [REDACTED]

Criminal Results:

# Indictments: 4	# Convictions: 3	# Dismissals: 1
# Incarcerations: 0	Months Incarcerated: 0	
# on Probation: 0	Months Probation: 0	
Fines: 0	Forfeits: 0	Restitutions: 0
Other: 0	# Debarments: 0	Years Debarred: 0

Civil Results:

# Complaints Filed: 0	# Consents Signed: 0	# Judgments: 0
Damages:	Penalties:	Forfeitures:
Fines:	Settlements:	Other:
# Debarments: 0	Years Debarred:	

Administrative Results:

Cases Referred: 0 # Cost Efficiencies: 0

Amount of Recoveries (less Cost Efficiencies):

Techniques:

May 6, 2008 Examination of Documents [REDACTED]
IN MAY 2008 I RECEIVED AND EXAMINED CASE FILE RECORDS FROM USDOL WAGE & HOUR DIVISION'S CHILD LABOR INVESTIGATION ON AGRIPROCESSORS.
May 12, 2008 Interviewing [REDACTED]
Interviewed legal resident alien and child labor employee of Agriprocessors Inc.
May 19, 2008 Search Warrants [REDACTED]
Executed federal search warrant at [REDACTED]
Jan 13, 2009 Grand Jury subpoena [REDACTED]

ON [REDACTED] TESTIFIED BEFORE OJRE THE CIRCUMSTANCES OF [REDACTED] (b) (3) (A)



Investigative Results Obtained Since the Last Review:
TWO INDICTMENTS AND ONE DISMISSAL WERE OBTAINED SINCE LAST REVIEW (SAME SUBJECT)

Objectives for the Next 6 Months:

(b) (3) (C)

Problems Encountered:
NONE

Guidance:
Provide prosecutorial assistance as needed

		Case Activity Report U.S. Department of Labor Office of Inspector General Office of Labor Racketeering And Fraud Investigations				
Date of Event:	August 10, 2009	Region:	Chicago	Case No.:	55-3963-0006-PCJ	
Location:	Cedar Rapids, Iowa	Subject/Title:	Operation Cedar Valley Junction	Case Agent:	(b) (7)(C)	
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input checked="" type="checkbox"/> Indictment <input checked="" type="checkbox"/> Conviction <input type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other:						

DETAILED SUMMARY:

On August 4, 2009 Yomotov "Toby" Bensasson pleaded guilty in the Northern District of Iowa to one count of 18 USC 371 Conspiracy. Bensasson admitted that he overstated the value of collateral for the purpose of influencing an FDIC insured institution upon requests for advances on a loan, in violation of 18 USC 1014. Under the terms of the agreement,

PREVIOUSLY REPORTED:

In July 2009 Yomotov "Toby" Bensasson, Comptroller for Agriprocessors, Inc returned to the United States.

See Attachment	Press Clippings/Releases Plea Agreements/Judgments	Yes	Dissemination Restricted To:	
Submitted By:	SA [REDACTED]		Date:	8/10/09 OIG-15 (OLRFI 12/03)

As Bensasson is currently not in the U.S., the indictment was sealed.

On December 10, 2008 Karina Freund pleaded guilty via Criminal Information to one misdemeanor count of aiding and abetting the hiring of undocumented aliens, in violation of 8 USC 1324a(a)(1)(A), 8 USC 1324a(f)(1) and 18 USC 2. Freund worked in the Human Resources Department of Agriprocessors, Inc.

On October 29, 2008 former Human Resource employee of Agriprocessors, Inc. Laura Althouse pleaded guilty to one count of 8 USC 1324 (Conspiring to Harbor Undocumented Aliens) and one count of 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). ~~_____~~ The plea agreement was filed under seal.

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. Laura Althouse was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). Karina Freund was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN/DUBUQUE DIVISION

UNITED STATES OF AMERICA,)	No. CR 09-1013 LRR
)	
Plaintiff,)	INFORMATION
vs.)	
)	Count 1: 18 U.S.C. § 371
YOMTOV BENSASSON (aka Toby)	
Bensasson),)	
)	
Defendant.)	

The United States Attorney charges:

COUNT 1

From at least September 2007 through about October 2008, in the Northern District of Iowa and elsewhere, defendant YOMTOV BENSASSON (aka Toby Bensasson) knowingly and willfully combined, conspired, and agreed with others to knowingly make false statements and reports, and willfully overvalue property and security, for the purpose of influencing the actions of an institution insured by the Federal Deposit Insurance Corporation upon requests for advances on a loan in violation of 18 U.S.C. § 1014.

In furtherance of the conspiracy and to effect the object of the conspiracy, the following overt act, among others, was committed in the Northern District of Iowa:

Overt Act: On or about September 4, 2007, defendant BENSASSON signed a Collateral Certificate which he knew overstated the value of collateral for a revolving loan as part of his employer's request for an advance on the revolving loan.

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This was in violation of Title 18, United States Code, Section 371.

MATT M. DUMMERMUTH
United States Attorney

By: s/ PETER E. DEEGAN, JR.

PETER E. DEEGAN, JR.
Assistant United States Attorney

Date: August 3, 2009

ENTRY SHEET



CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ			Title: Operation Cedar Valley Junction		
Defendant: BENSASSON ✓ (Last)		YOMOTOV ✓ (First)			
Date Presented: 4/15/09 ✓	Presented To: F ✓	District: N/A ✓	Exception:	Sealed:	
Date Declined:	Date Arrested:				
Date Charged: 8/4/09 ✓	Dates Superseded:				
Charges	Type	Disp	Defer	Outcome Code: CV ✓	<i>CV ✓</i> <i>8-24-09 ✓</i> <i>CR 09-1013 LRR ✓</i> <i>8-11-09</i>
18 USC § 371	I	CV ✓		Outcome Date: 8-24-09 ✓	
REMARKS/COMMENTS:				Sentenced/Pre-Trial Date:	
				Inc (Mos):	
				Prob (Mos):	
				Fines:	
				Comm. Srvs Hrs:	
				Forfeits:	
				Rest:	
				OTHER:	
				DEBARMENT (Yrs):	
				29USC504:	(Y/N)
				29USC1111:	(Y/N)



Case Activity Report
 U.S. Department of Labor
 Office of Inspector General
 Office of Labor Racketeering And Fraud Investigations



Date of Event:	July 13, 2009	Region:	Chicago	Case No.:	55-3963-0006-PCJ
Location:	Cedar Rapids, Iowa	Subject/Title:	Operation Cedar Valley Junction	Case Agent:	(b) (7)(C)
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input type="checkbox"/> Indictment <input type="checkbox"/> Conviction <input type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other: <u>Dismissal</u>					

SEALED INDICTMENT

DETAILED SUMMARY:

In July 2009 Yomotov "Toby" Bensasson, Comptroller for Agriprocessors, Inc returned to the United States.
 [REDACTED]

[REDACTED]

PREVIOUSLY REPORTED:

[REDACTED]

[REDACTED]

As Bensasson is currently not in the U.S., the indictment was sealed.

On December 10, 2008 Karina Freund pleaded guilty via Criminal Information to one misdemeanor count of aiding and abetting the hiring of undocumented aliens, in violation of

See Attachment	Press Clippings/Releases Plea Agreements/Judgments	No	Dissemination Restricted To:	SEALED INDICTMENT Restricted to OLRFI
Submitted By:	SA [REDACTED]		Date:	7/13/09 OIG-15 (OLRFI 12/03)

8 USC 1324a(a)(1)(A), 8 USC 1324a(f)(1) and 18 USC 2. Freund worked in the Human Resources Department of Agriprocessors, Inc.

On October 29, 2008 former Human Resource employee of Agriprocessors, Inc, Laura Althouse pleaded guilty to one count of 8 USC 1324 (Conspiring to Harbor Undocumented Aliens) and one count of 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). The plea agreement was filed under seal.

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On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. Laura Althouse was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). Karina Freund was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

ENTRY SHEET

(b)(7)(C)

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Operation Cedar Valley Junction		
Defendant: BENSASSON (Last)		YOMOTOV (First)		
Date Presented: 4/15/09	Presented To:	District:	Exception:	Sealed:
Date Declined:	Date Arrested:			
Date Charged: 4/15/09	Dates Superseded:			
Charges	Type	Disp	Defer	Outcome Code: DS ✓
18 USC § 1546	I	DS ✓		Outcome Date: 7/13/09 ✓
18 USC § 2	I	DS ✓		Docket#: CR 09-1009 LRR ✓
REMARKS/COMMENTS:				Sentenced/Pre-Trial Date:
Charges were dismissed pending negotiations for subject's cooperation in Agriprocessors Inc case.				Inc (Mos):
				Prob (Mos):
				Fines:
				Comm. Srvc Hrs:
				Forfeits:
				Rest:
				OTHER:
				DEBARMENT (Yrs):
				29USC504: (Y/N)
				29USC1111: (Y/N)

*Entered
7-14-09
JP*

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LAURA LOUISE ALTHOUSE,

Defendant.

CR 08-1323 LRR

ORDER

Plaintiff's Motion for Leave of Court to Dismiss Count 2 of the Information (docket no. 196) is before the court. Plaintiff's motion is granted.

Sentencing will proceed as scheduled on May 13, 2009 at 8:00 a.m. as to Count 1 only.

IT IS SO ORDERED.

DATED this 6th day of May, 2009.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA



ENTRY SHEET

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Operation Cedar Valley Junction	
Defendant: BENSASSON (Last)		YOMOTOV (First)	
Date Presented: 4/15/09 ✓	Presented To: F ✓	District: J.A.N ✓	Exception: Sealed:
Date Declined:	Date Arrested:		
Date Charged: 4/15/09 ✓	Dates Superseded:		
Charges	Type	Disp	Defer
18 USC § 1546	1	✓	5-2-09 6-2-09 6-2-09
18 USC § 2	1	✓	
REMARKS/COMMENTS:			
Outcome Code:			
Outcome Date:			
Docket#: CR 09-1009 LRR			
Sentenced/Pre-Trial Date:			
Inc (Mos):			
Prob (Mos):			
Fines:			
Comm. Srvc Hrs:			
Forfeits:			
Rest:			
OTHER:			
DEBARMENT (Yrs):			
29USC504: (Y/N)			
29USC1111: (Y/N)			

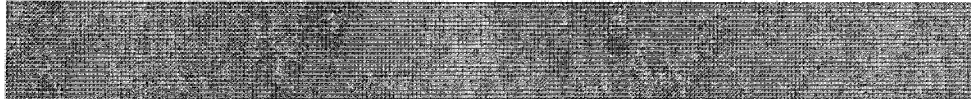
3 pgs withheld
in full

rule 6e
Grand Jury

		Case Activity Report U.S. Department of Labor Office of Inspector General Office of Labor Racketeering And Fraud Investigations				
		Date of Event:	April 15, 2009	Region:		
Location:		Cedar Rapids, Iowa	Subject/Title:		Operation Cedar Valley Junction	
				Case Agent:	[REDACTED]	
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Conviction <input type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other						

SEALED INDICTMENT

DETAILED SUMMARY:



Bensasson submitted applications for an H-1B visa for a "budget analyst" to work in the Agriprocessors Accounting Department, which Bensasson supervised. The H-1B was approved and a non-immigrant worker came to Agriprocessors, Inc. for the position. Bensasson employed the worker in a position other than that which was applied for and failed to pay prevailing wages. This is a joint investigation with DHS ICE. This case has received considerable media attention.

As Bensasson is currently not in the U.S., the indictment was sealed.

PREVIOUSLY REPORTED:

On December 10, 2008 Karina Freund pleaded guilty via Criminal Information to one misdemeanor count of aiding and abetting the hiring of undocumented aliens, in violation of 8 USC 1324a(a)(1)(A), 8 USC 1324a(f)(1) and 18 USC 2. Freund worked in the Human Resources Department of Agriprocessors, Inc.

On October 29, 2008 former Human Resource employee of Agriprocessors, Inc, Laura Althouse pleaded guilty to one count of 8 USC 1324 (Conspiring to Harbor Undocumented Aliens) and one count of 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). [REDACTED] The plea agreement was filed under seal.

This is a joint investigation with DHS ICE and this case has received considerable media attention.

See Attachment	Press Clippings/Releases Plea Agreements/Judgments	No	Dissemination Restricted To:	SEALED INDICTMENT Restricted to OLRFI
Submitted By	SA [REDACTED]		Date:	4/16/09 DIG-15 (OLRFI 12/03)

On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. Laura Althouse was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). Karina Freund was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

ENTRY SHEET

CRIMINAL RESULTS

File Number: 55-3963-0006-PCJ		Title: Agriprocessors Inc	
Defendant: Freund (Last)		Karina (First)	
Date Presented: 5/11/08	Presented To: F	District: N/LA	Exception: Sealed:
Date Declined:	Date Arrested: 9/9/08		
Date Charged: 9/9/08	Dates Superseded:		
Charges 8 USC 1324	<u>Type</u> I	<u>Disp</u> CV ✓	<u>Defer</u>
REMARKS/COMMENTS:	Outcome Code: CV ✓ Outcome Date: 12/10/08 ✓ Docket#: CR 08-1324 LRR ✓ Sentenced/Pre-Trial Date:		
	Inc (Mos): Prob (Mos): Fines: Comm. Srvc Hrs: Forfeits: Rest: OTHER: DEBARMENT (Yrs): 29USC504: (Y/N) 29USC1111: (Y/N)		

2/26/09 entered JP.

55-3963-0006-PC-J
05/15/2009

Case Information:
Title: OPERATION CEDAR VALLEY JUNCTION
Date Opened: 05/03/2008
Criminal Activity: IDY ERD
Violations: 18 USC 1028 & USC 1324
Last Serial Number in File: 81
Total Hours (period):
Total Hours:
Total Amount of Expenditures:
Joint Agencies: ICE

Index Information:
LAURA ALTHOUSE (SUBJECT)
SSN: 481821343

TOBY DENASSON (SUBJECT)
SSN: 999-59-9999

(WITNESS)
SSN: 999-59-9999

(WITNESS)
SSN: 481119706

KARINA FREUND (SUBJECT)
SSN: 48073356

SHOLOM RUBASHKIN (SUBJECT)
SSN: 999-59-9999

(SUBJECT)
EIN:

Case Opening Synopsis:

The basis for this investigation is a request from the U.S. Attorney Office, Northern District of Iowa to provide assistance with the investigation of Agriprocessors, Inc. (Agriprocessors) in Postville, Iowa. Immigration and Customs Enforcement (ICE) is conducting an investigation of Agriprocessors in coordination with other agencies. There are allegations involving the hiring of an estimated 700 illegal aliens, child labor violations, cash payments to employees, human trafficking and worker exploitation issues. Agriprocessors is one of the world's largest kosher meat producers. The company produces beef, poultry, turkey and lamb. The plant has been the center of controversies for a variety of issues, including health and safety. According to media accounts, during the period April 2001 to 2006, OSHA records show twenty violations at Agriprocessors, seven serious violations. In 2001, ERSA conducted an administrative investigation of Agriprocessors involving the company's failure to make contributions to the company sponsored health benefits plans.

Case File Review Synopsis:

FOR THE PERIOD ENDING MARCH 15, 2009 IN SEPTEMBER 2008 TWO (2) AGRIPROCESSORS HUMAN RESOURCES EMPLOYEES WERE CHARGED BY CRIMINAL COMPLAINT WITH CONSPIRING TO HARBOR UNDOCUMENTED ALIENS, AIDING AND ABETTING DOCUMENT FRAUD AND AIDING AND ABETTING HARBORING. CHARGED WERE KARINA FREUND AND LAURA ALTHOUSE. OLRPI INTERVIEWS CONTRIBUTED TO THE CASE AGAINST ALTHOUSE AND FREUND. BOTH ALTHOUSE AND FREUND LATER PLEADED GUILTY IN OCTOBER 2008 AND DECEMBER 2008 RESPECTIVELY. IN JANUARY 2009, OLRPI INVESTIGATION REVEALED THAT AGRIPROCESSORS FINANCIAL CONTROLLER TOBY DENASSON VIOLATED 18 USC 1028 (A) FRAUD BY FAILING TO

Criminal Results:

# Indictments: 2	# Convictions: 2	# Dismissals: 0
# Incarcerations: 0	Months Incarcerated: 0	
# on Probation: 0	Months Probation: 0	
Fines: 0	Foster: 0	Restraints: 0
Other: 0	# Deportments: 0	Years Debarred: 0

Civil Results:

# Complaints Filed: 0	# Consents Signed: 0	# Judgments: 0
Damages:	Penalties:	Forfeitures:
Fines:	Settlements:	Other:
# Deportments: 0	Years Debarred:	

Administrative Results:

Cases Referred: 0 # Cost Efficiencies: 0

Amount of Recoveries (less Cost Efficiencies):

Techniques:

May 6, 2008 Examination of Documents [REDACTED]
IN MAY 2008 I RECEIVED AND EXAMINED CASE FILE RECORDS FROM US DOL WAGE & HOUR DIVISION'S CHILD LABOR INVESTIGATION ON AGRIPROCESSORS
May 12, 2008 Interviewing [REDACTED]
Interviewed legal resident alien and illegal alien employees of Agriprocessors Inc.
May 19, 2008 Search Warrants [REDACTED]
Executed federal search warrant at the offices of Agriprocessors Inc.

Jan 13, 2009 Grand Jury Subpoena [REDACTED]

ON [REDACTED] TESTIFIED BEFORE GJ RE: THE [REDACTED]

Investigative Results Obtained Since the Last Review:

IN THIS PERIOD THE REPORTING AGENT CONDUCTED INTERVIEWS, EXAMINATION OF DOCUMENTS AND GRAND JURY SUBPOENA

Objectives for the Next 6 Months:

IN THE NEXT 6 MONTHS I EXPECT AGRIPROCESSORS COMPTROLLER TOBY BENSASSON TO BE INDICTED ON VISA FRAUD OR FALSE STATEMENT CHARGES BASED UPON OLRFI'S INVESTIGATION. BENSASSON IS ALSO EXPECTED TO BE CHARGED WITH BANK FRAUD BASED UPON ICE INVESTIGATION

Problems Encountered:

DUE TO THE LOCATION OF THE SUBJECTS IN THIS CASE (NORTHERN IOWA) COMMUNICATION WITH ICE CO-CASE AGENTS AND AUSA HAS PROVEN TO BE PROBLEMATIC. THE REPORTING AGENT WILL CONTINUE TO WORK TO IMPROVE COMMUNICATIONS WITH ALL PARTIES.

Guidance:

Continue to provide prosecution assistance relative to developing evidence to support charges against Agriprocessors Comptroller Toby Bensasson for visa fraud



Case Activity Report
 U.S. Department of Labor
 Office of Inspector General
 Office of Labor Racketeering and Fraud Investigations



Date of Event:	December 10, 2008	Region:	Chicago	Case No.:	55-3963-0006-PCJ
Location:	Postville, Iowa	Subject/Title:	Operation Cedar Valley Junction	Case Agent:	(b) (7)(C)
<input type="checkbox"/> Arrest <input type="checkbox"/> Search <input type="checkbox"/> Indictment <input checked="" type="checkbox"/> Conviction <input type="checkbox"/> Sentencing <input type="checkbox"/> Admin. Action <input type="checkbox"/> Monetary Results <input type="checkbox"/> Civil Action <input type="checkbox"/> Debarment <input type="checkbox"/> Admin. Issue <input type="checkbox"/> RICO <input type="checkbox"/> Other: <u>Guilty Plea</u>					

DETAILED SUMMARY:

On February 19, 2009, the case agent was notified that on December 10, 2008 Karina Freund pleaded guilty via Criminal Information to one misdemeanor count of aiding and abetting the hiring of undocumented aliens, in violation of 8 USC 1324a(a)(1)(A), 8 USC 1324a(f)(1) and 18 USC 2. Freund worked in the Human Resources Department of Agriprocessors, Inc.

PREVIOUSLY REPORTED:

On October 29, 2008 former Human Resource employee of Agriprocessors, Inc, Laura Althouse pleaded guilty to one count of 8 USC 1324 (Conspiring to Harbor Undocumented Aliens) and one count of 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). The plea agreement was filed under seal.

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On September 9, 2008 two Human Resource employees from Agriprocessors, Inc were charged by criminal complaint and arrested in the Northern District of Iowa. Laura Althouse was charged with violating 8 USC 1324 (Conspiring to Harbor Undocumented Aliens), 18 USC 1546 (Aiding and Abetting in Document Fraud) and 18 USC 1028A (Aiding and Abetting Aggravated Identity Theft). Karina Freund was charged with violating 8 USC 1324 (Aiding and Abetting the Harboring of Undocumented Aliens).

This is a joint investigation with DHS ICE and this case has received considerable media attention.

On May 12, 2008 OLRFI Special Agents of the St. Louis and Kansas City resident offices participated in the execution of criminal search warrant at the offices of AgriProcessors

Sec Attachment	Press Clippings/Releases Plea Agreements/Judgments	Yes	Dissemination Restricted To:	No Restrictions
Submitted By:	SA [REDACTED]		Date:	February 19, 2009

OIG-15 (OLRF) 12/03

Incorporated in Postville, Iowa. Agents from DHS ICE, USMS, FBI, DEA, and Iowa state agencies simultaneously executed a civil search warrant (in the factory) for people illegally in the United States. Approximately 390 illegal aliens were arrested, of which approximately 52 were released for humanitarian reasons. Many of the aliens were using stolen identities of US citizens. The United States Attorney's office of the Northern District of Iowa requested OLRFI assistance in the investigation.

The focus of OLRFI efforts concerns potential ERISA violations involving the company's health benefit plan and potential Visa Fraud violations. AgriProcessors employed several H-1B recipients and Perm certified visa recipients.

The criminal search warrant resulted in the seizure of thousands of documents related to the company's administrative operations and payroll processing. OLRFI also conducted interviews of H-1B recipients, permanent visa recipients and underage minor employees.

See Attachment	Press Clippings/Releases Press Agreements/Judgments	<u>Yes</u>	Dissemination Restricted To:	No Restrictions
Submitted By:	SA (b)(7)(C)		Date:	February 19, 2009

OIG-15 (OLRFI 12/03)

9 pages

Referred to EOUSA

(b) (7)(C) - OIG

From: [redacted]@dhs.gov
Sent: Wednesday, February 11, 2009 8:42 AM
To: [redacted] - OIG
Subject: RE: Status

AP is still being run by the trustee but there is a potential buyer in the works, the name is [redacted] appears that they will remain a potential buyer after a meeting was held between the USAO and the trustee last week. Still anticipating a potential indictment of [redacted] in March. We did grand jury yesterday and got some potentially good information on [redacted]

Hope all is well.

[redacted]

From: [redacted] OIG [mailto:[redacted]@oig.dol.gov]
Sent: Wednesday, February 11, 2009 8:37 AM
To: [redacted]
Subject: Status

Hey [redacted]

What's going on with the AP? Are they still under trusteeship? I heard rumors of someone buying the company?

Any timeframe on [redacted] yet?

I am still waiting for [redacted]

Thanks,

[redacted]
Special Agent
USDOL, OIG, OLRFI
[redacted]

2/11/2009

79

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA**

EASTERN DIVISION

UNITED STATES OF AMERICA

Plaintiff(s)

vs.

(b) (7)(C)

Defendant(s)

HEARING MINUTES

Case No.: 2:08 CR 1324

Presiding Judge: JON STUART SCOLES

Deputy Clerk: Lindsey Brumback

Court Reporter: Patrice Murray

Contract? No.

(If yes, send copy to financial)

Date:	12/10/08	Start:	4:10 pm	Adjourn:	4:41 pm	Time in Chambers:		
Recesses:							Telephonic?	
Appearances:	Plaintiff(s):	AUSA Peter E. Deegan, Jr.						
	Defendant(s):	appears personally with Mark R. Brown						
	U.S. Probation:	N/A						
	Interpreter:	N/A	Language:	--	Certified:	-	Phone	-
TYPE OF PROCEEDING:	IS THE HEARING	Contested?	No	Continued from a previous date?	No			
ARRAIGNMENT:	X	AND/OR	INITIAL APPEARANCE:					
	Date of indictment:	Information filed 12/09/08						
	Was defendant <i>Mirandized</i> ?	Yes						
	Defendant pleaded	Guilty (see below)						
	Counsel:	Retained:	X	or	Appointed:	FPD/Other:	Mark Brown	
PLEA:	Defendant pleaded GUILTY to count(s):	Count 1 of the information						
	Defendant is	released	pending sentencing.					
	Witness/Exhibit List is	Government's exhibit #1 (plea agreement) is offered and received. *SEALED						
	Miscellaneous:	(b) (3) (A)						

- OIG

From: Barcus, Michael - OIG
 Sent: Thursday, February 19, 2009 8:23 AM
 To: - OIG
 Subject: Karina Freund

'Guilty' says Agriprocessors human resources employee

By Lynda Waddington 12/10/08 7:15 PM

A 29-year-old former human resources employee at the beleaguered Agriprocessors meatpacking plant in Postville pleaded guilty to immigration-related charges today in federal court.

Karina Pilar Freund, a resident of Fayette, was convicted of one misdemeanor count of aiding and abetting a pattern or practice of hiring undocumented aliens. Documents filed on Dec. 9 with the court indicated that Freund, while employed in the human resources department at Agriprocessors, aided in the unlawful employment of such individuals, knowing that the people were not authorized to work in the U.S.

A sentencing date has not yet been determined, and Freund remains free on bond until that hearing. She faces a possible maximum sentence of six months in prison or a term of probation of not more than five years. She also faces a fine of up to \$3,000 for each undocumented worker involved in the offense.

Freund was one of five plant employees and members of management named in a Nov. 21 indictment. At that time she had already been facing charges for harboring undocumented aliens for profit, and the indictment added a charge of conspiracy to harbor undocumented aliens for profit. While the specific terms of the plea agreement she signed today in federal court have not yet been made public, it is likely that these charges will be dropped.

Laura Althouse, 38, who also worked in the human resources department at Agriprocessors, pleaded guilty on Oct. 29 to one count of conspiracy to harbor undocumented aliens and one count of aggravated identity theft. The indictment of the five employees handed down in late November relied heavily on the testimony of Althouse and former plant supervisors Martin De La Rosa and Juan Carlos Guerrero-Espinoza. They have also been convicted on charges related to immigration.

In addition to the federal charges, Freund and Althouse remain parties in a state criminal complaint that alleges more than 2,000 child labor law violations at the plant. Although Elizabeth Billmeyer, former manager at the Agriprocessors human resources department, has not yet been mentioned by the federal authorities, she is also named in the child labor law complaint that was filed in September by the Iowa Attorney General's Office.

Agriprocessors, which filed in early November for Chapter 11 bankruptcy, only recently resumed limited poultry production at the Postville facility. A sister-site in Gordon, Neb. remains closed.

2/19/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN/DUBUQUE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KARINA PILAR FREUND,

Defendant.

)
)
)
)
)
)
)
)

No. CR 08-1324 LRR

INFORMATION

8 U.S.C. §§ 1324a(a)(1)(A)
and 1324a(f)(1)
18 U.S.C. § 2

The United States Attorney charges:

COUNT 1

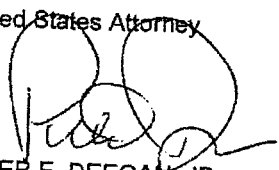
Between about March 2007 and about May 2008, in the Northern District of Iowa and elsewhere, defendant KARINA PILAR FREUND did aid and abet the knowing and unlawful engagement in a pattern and practice of hiring for employment in the United States aliens, knowing such aliens to be unauthorized aliens with respect to such employment.

This was in violation of Title 8, United States Code, Sections 1324a(a)(1)(A) and 1324a(f)(1) and Title 18, United States Code, Section 2.

MATT M. DUMMERMUTH
United States Attorney

Date *12/19/08*

By:



PETER E. DEEGAN, JR.
Assistant United States Attorney

2 pages

Referred to EOUSA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN/DUBUQUE DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-1323 LRR
)	
Plaintiff,)	INFORMATION
vs.)	
)	Count 1: 8 U.S.C.
LAURA LOUISE ALTHOUSE,)	§§ 1324(a)(1)(A)(v)(I) and
)	1324(a)(1)(B)(i)
Defendant.)	
)	Count 2: 18 U.S.C. § 1028A(a)(1)

The United States Attorney charges:

COUNT 1

During at least the five years preceding May 12, 2008, in the Northern District of Iowa and elsewhere, defendant LAURA LOUISE ALTHOUSE did knowingly conspire, confederate and agree with others, for the purpose of commercial advantage and private financial gain, to harbor one or more aliens at her place of employment in Postville, Iowa, knowing and in reckless disregard of the fact that such aliens had come to, entered and remained in the United States in violation of law in violation of 8 U.S.C. § 1324(a)(1)(A)(iii).

This was in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(v)(I) and 1324(a)(1)(B)(i).

COUNT 2

In about May 2008, in the Northern District of Iowa, defendant LAURA LOUISE ALTHOUSE, during and in relation to the offense set out in Count 1 above, did knowingly possess and use without lawful authority a means of identification of another

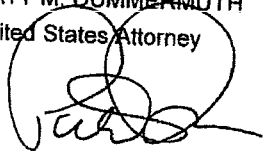
person. Specifically, defendant possessed and used a resident alien number ending in "598" which was then assigned to another person.

This was in violation of Title 18, United States Code, Section 1028A(a)(1).

MATT M. DUMMERMUTH
United States Attorney

Date 10/28/08

By:


PETER E. DEEGAN, JR.
Assistant United States Attorney

14 pages

Referred to EOUSA

Case No. 55-2963-0006-PCJ

January 22, 2009

SA

(b)(7)(C)

MEMO TO FILE

On [REDACTED] appeared before a federal Grand Jury in Cedar Rapids, Iowa to provide testimony regarding [REDACTED] at Agriprocessors Incorporated.

[REDACTED] interviewed by AUSA Pete Deegan prior to the testimony. The reporting agent and ICE SA [REDACTED] were present during the interview. [REDACTED] information regarding the circumstances of [REDACTED] at Agriprocessors Inc, [REDACTED] etc.

12 PAGES

REFERRED TO ETA OFLC



Investigation on: 11/25/08 At: St. Louis, MO File: 55-3963-0006-PC
(b) (7)(C)

By: S/

Date Prepared: 11/25/08

Self Insured Services Company (SisCo)
P.O. Box 389
Dubuque, Iowa 52004
Phone: 563-587-5285

On November 25, 2008 at approximately 11:00 am USDOL, OIG Special Agent [redacted] contacted [redacted] telephonically. [redacted] supervisor [redacted] was also on the line. [redacted] were advised of the identity of the agent and the purpose of the interview. They provided the following information voluntarily.

Agriprocessors provided two (2) funding streams to Sisco. One of the streams was claims payments. Sisco sent weekly invoices to Agriprocessors for medical claims. [redacted] provided OLRFI with a spreadsheet which details the invoices and payments made on this funding stream. Agriprocessors is currently very far behind in paying the bill for this funding stream.

The second funding stream was a monthly bill for Sisco's administrative fees and for Agriprocessors' Health Care Plan's stop loss prevention insurance. Sisco provided Agriprocessors with a monthly invoice (usually on the 1st day of the month) which detailed the number of participating employees. The bill was comprised of a set charge per employee. Agriprocessors usually paid this bill by the end of each month. The invoice was provided in advance of the month for which the services were due. For example, Sisco sent an invoice to Agriprocessors on October 1 to cover the charges for October.

Agriprocessors remained current on this second funding stream through September 2008. The October 2008 invoice was not paid, which led to Sisco terminating its services on November 6, 2008.

[redacted] agreed to provide OLRFI with copies of the monthly invoices and a record of payments made for the second funding stream.



October 29, 2008

Peter Deegan
Assistant United States Attorney
United States Attorney's Office
Northern District of Iowa
Hach Building, Suite 400
401 1st Street, S.E.
Cedar Rapids, Iowa 52401-1825

Dear Mr. Deegan:

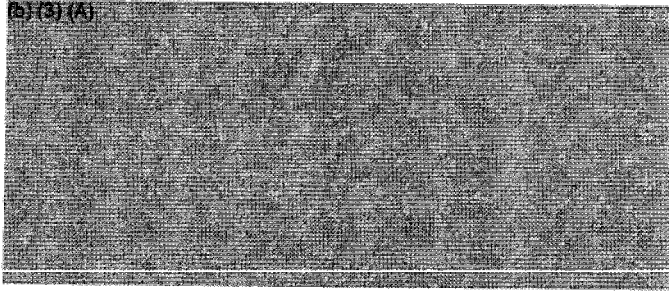
In the matter of the investigation of Agriprocessors, Inc. and related matters, the following is the 6(e) Grand Jury list for the United States Department of Labor, Office of Inspector General, Office of Labor Racketeering and Fraud Investigations, for this case.

(b) (3) (A)

A large rectangular area of the document is redacted with a dense, dark, textured pattern. The text "(b) (3) (A)" is visible in the top left corner of this redacted area.

A rectangular area of the document is redacted with a dense, dark, textured pattern.

A rectangular area of the document is redacted with a dense, dark, textured pattern.



Please contact Special Agent [REDACTED] if additional information is needed.

Sincerely,

Michael Barcus
Assistant Special Agent in Charge



U.S. Department Justice

United States Attorney
Northern District of Iowa

401 First Street S.E.
Suite 400
Cedar Rapids, Iowa 52401-1823

(319) 363-6333
FAX (319) 363-1990
TTY (319) 296-9258

November 12, 2008

Special Agent **(b)(7)(C)**
United States Department of Labor
OIG-Office of Labor Racketeering and Fraud Investigations
1222 Spruce Room 2.102F
St. Louis, MO 63103

Re: 6(e) Information

Dear Special Agent **(b)(7)(C)**

Your name has been disclosed to the United States District Court for the Northern District of Iowa as a person who has been or may be given access to materials, including documentary and testimonial evidence, obtained through the powers of a federal grand jury inquiring into possible federal criminal violations.

In accordance with Rule 6(e)(3)(A)(ii), you have been or may be given access to those materials for the sole purpose of assisting the government attorneys involved in the grand jury investigation in the performance of their duties to enforce federal criminal law.

The grand jury investigation is criminal in nature, and grand jury proceedings are secret. The unauthorized disclosure of grand jury matters is punishable by criminal contempt proceedings. Grand jury matters include the identities of subpoenaed witnesses, their testimony and the nature and content of documents and physical evidence obtained through the grand jury investigation.

No grand jury material may be disclosed or used for any civil or administrative purpose or for any purpose other than for federal criminal investigations, except by order of the Court.

You are further informed that no subpoenas may be issued or served which have not been approved by a government attorney participating in this investigation. You must retain the original service copy of each subpoena authorized and issued in connection with this investigation. All such subpoenas shall be provided to the government attorney.

Please fill out the enclosed 6(e) certification and return to our office in the enclosed self-addressed stamped envelope.

Thank you.

Sincerely,

MATT M. DUMMERMUTH
United States Attorney

By,


PETER E. DEEGAN, JR.
Assistant United States Attorney