

# Newsletter

## Immigration Monthly - September 2012

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### **IMMIGRATION ENFORCEMENT NEWS:**

The U.S. Department of Justice (DOJ) has recently filed suit against a Las Vegas hotel and casino seeking monetary and injunctive relief for allegedly engaging in a pattern or practice of discrimination in the employment eligibility verification and re-verification process. The government alleges that the hotel impermissibly held non-U.S. citizens to a different standard during the I-9 employment eligibility verification and re-verification process by having them provide additional or different documents or information and by asking that specific documents be presented, beyond what is required and allowed under federal law. The hotel also allegedly had U.S. lawful permanent residents reverify employment eligibility upon expiration of their Permanent Resident Cards ("Green Cards") even though the Green Cards are not subject to re-verification. All U.S. employers are required to complete and maintain Forms I-9, and should have a solid immigration compliance program, including procedures for hiring and nondiscriminatory employment eligibility verification and re-verification.

The DOJ reached a settlement agreement with Imagine Schools Inc. after an investigation into claims of immigration-related employment discrimination in connection with the termination of one of Imagine School's employees in Ohio. The employee, a U.S. lawful permanent resident, alleged that the school improperly terminated him after he failed to produce an unexpired Green Card during I-9 re-verification, when he had already presented a valid Green Card when he was hired. Under the federal I-9 regulations, certain documents, including Green Cards and U.S. passports, are not subject to re-verification. Imagine Schools has agreed to pay more than \$20,000 in back pay and civil penalties, train its personnel on the immigration laws pertaining to discrimination, and provide periodic reports to the Justice Department for 18 months.

A Van Nuys manufacturing company and one of its owners face federal criminal charges for hiring unauthorized foreign workers and taking action to conceal the illegal hiring so that they could continue to employ the workers. The investigation into hiring practices of Wazana Brothers International, Inc. dba Micro Solutions Enterprises (MSE) began in 2007 and led to a February 2008 enforcement operation, during which federal agents arrested eight current and former company workers on criminal charges and another 130 employees on administrative immigration violations. MSE admitted to hiring approximately 55 unauthorized workers and then continuing to employ them after the government's audit began. In addition, the owner of MSE pled guilty to one felony count of false representation of a Social Security number. Under a plea agreement, MSE agrees to pay approximately \$267,000 in civil and criminal fines, submit to 3 years' probation, retain an independent compliance monitor to oversee completion and maintenance of the company's hiring records, and train its employees with regard to federal hiring laws. Since 2009, Homeland Security Investigations (HSI), an arm of U.S. Immigration and Customs Enforcement, has made concerted effort to reduce demand for illegal employment by auditing I-9's and hiring practices of U.S. employers, resulting in record amount of civil and criminal penalties being levied each successive year.

### **DEPARTMENT OF STATE (DOS) NEWS:**

The recently published October 2012 Visa Bulletin indicates small progress with regard to immigrant visa number availability for nationals of the majority of countries falling under the Second Employment-Based immigrant category ("EB-2") reserved for individuals with advanced degrees. Importantly, the new Visa Bulletin shows immigrant visa number availability for most individuals with permanent immigration priority dates of

January 1, 2012 or earlier in the EB-2 category, and for nationals of India and China the visa category dates go from "unavailable" to September 1, 2004 and July 15, 2007, respectively. With Green Card waiting times fluctuating from several months to several years and beyond, both family and employer sponsors interested in sponsoring foreign nationals should initiate those proceedings sooner rather than later.

The U.S. and Russia have entered into a visa agreement aimed at facilitating business and tourist travel between the two countries. Among the benefits, the agreement allows for longer visa validity, shorter standard visa processing times, reduced visa application fees, and streamlined visa application process including reduced documentation requirements.

## **U.S. CUSTOMS AND BORDER PROTECTION (CBP) UPDATE:**

San Antonio International Airport becomes the most recent addition to the Global Entry program, a volunteer initiative by CBP that allows certain travelers, including U.S. citizens, U.S. lawful permanent residents, and Mexican nationals, upon return to the U.S. after travel abroad, to complete customs declaration forms, and verify entry documents and identity at automated self-service kiosks rather than the usual passport control lines. Enrollment into Global Entry must be done in advance of travel via submission of an online application and \$100 fee payment, as well as in-person interview and fingerprinting by a CBP officer at an enrollment center. Global Entry program membership is valid for up to five years at a time.

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### **Related Practices**

Immigration