

Immigration News

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I-9/E-Verify Services:

- I-9/E-Verify consultations to determine how we can help you improve your compliance procedures
- I-9 and E-Verify Training
- I-9 Audits
- Assisting your company with E-Verify Registration
- Drafting I-9 and E-Verify Policies and Procedures or reviewing your company's written policies

Meet the Newest Member of Our Team

On October 1, 2012, Sal Barrientos joined the firm as an I-9 and E-Verify Specialist. Sal graduated in 1987 from St. Mary's University in San Antonio, Texas with a B. A. in Public Justice with a Prelaw Minor. For over 26 years, Sal worked for the U.S. government as a Criminal Investigator for the U.S. Marshal Service, U.S. Customs Service and Immigration and Customs Enforcement (ICE) Homeland Security Investigations. For the past six years, Sal was the primary program coordinator for the ICE Mutual Agreement between Government and Employers (IMAGE) program covering the states of Louisiana, Mississippi, Alabama, Arkansas and Tennessee providing I-9 compliance guidance, E-Verify training and Fraudulent

Document Awareness to businesses within his area of responsibility and nationwide. Sal has been a keynote speaker at multiple professional and public forums addressing employer's responsibilities with regard to Immigration employment hiring practices. Sal retired from ICE on September 29th.

Sal has been married to Traci for 23 years; they have three daughters, Arielle, Gabrielle and Brittani and one son, Jonathan. The Barrientos currently reside in Biloxi, Mississippi.

Sal will offer a wide range of I-9 and E-Verify compliance services including consulting on I-9 compliance, assistance with E-Verify registration and I-9 and E-Verify training to our clients. Sal has experience



Sal Barrientos,
I-9 and E-Verify Specialist

working with businesses in all industries and of all sizes and can tailor his services to meet your company's needs.

Sal will be based in the firm's Biloxi office.

Continue to Use Form I-9 Beyond Expiration Date

United States Citizenship and Immigration Services ("USCIS") announced on August 13, 2012 that employers should continue to use the current Form I-9 past its August 31, 2012 expiration date. USCIS said it would provide information

about the new Form I-9 as it becomes available.

USCIS had earlier announced that it was extending the comment period for proposed revisions to the Form I-9 until October 15, 2012. These comments

should focus on the information being collected and whether it is necessary and/or burdensome.

In the initial comment period for the new Form I-9, USCIS received more than 6,200 comments.

Report Says New Immigrant Businesses Boosting Economy, Creating Jobs

With immigrants more likely to start a business than native born Americans, immigrant-owned new businesses are critical to jump-starting the economy and creating jobs, according to a report released August 14, 2012 by Partnership for a New American Economy. The report, *Open for Business: How Immigrants Are Driving Small Business Creation in the United States*, said 28 percent of all new small businesses started in the U.S. last year were founded by immigrants. That figure, the report said, is larger than the immigrant share of the total U.S. population—12.9 percent—and a “substantial jump” from 1996, when 15 percent of all

new small businesses were started by immigrants.

The report said that one out of every 10 workers at private companies is employed by an immigrant owned business, and together immigrant-owned businesses account for 4 million jobs in the United States today.

While the average payroll generated by



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immigrant businesses is less than those owned by native-born Americans, the report said immigrants’ total contribution to the U.S. payroll is more than \$126 billion per year.

While 37 percent of immigrants who start new businesses have some college or a college degree, another 37 percent of immigrants who start businesses do not have a high school diploma. These businesses frequently create jobs in areas with fewer job opportunities and higher unemployment.

Alabama IT Company Pays Almost \$258,000 in Back Wages to 21 Indian H-1B Workers

A Montgomery, AL based international software development company has paid nearly \$258,000 in back wages to 21 foreign information technology workers, the Department of Labor (“DOL”) said July 9.

The DOL said in a statement that SVK Systems Inc. paid \$257,635 to the nonimmigrant employees from India who were hired under the H-1B visa program for IT jobs in 17 states. The enforcement action followed an investigation by DOL’s Wage and Hour Division that found the company failed to pay the workers when they were required to report to the Mont-

gomery office for training. There were also instances in which the employer did not pay the required prevailing wage rate for some of the hours worked, according to the DOL.

In addition to Alabama, the employees worked in New York, Nebraska, North Carolina, Missouri, Minnesota, Maryland, Georgia, New Jersey, Virginia, Texas, Pennsylvania, Oregon, Illinois, Florida, Connecticut and California. SVK—which DOL said provides systems integration services, outsourced software development, and IT staffing to other companies.

“The enforcement action found the company failed to pay the workers when they were required to report to the Montgomery office for training.”

SVK also agreed to future compliance with I-9 regulations as part of the settlement.

USCIS Launches Spanish-language I-9 Central

On October 4, 2012, the United States Citizenship and Immigration Services (“USCIS”) launched a Spanish-language version of I-9 Central, an online resource center designed to provide information and assistance related to the most frequently accessed form on



A Spanish language version of I-9 Central is now available at www.uscis.gov.

www.uscis.gov—Form I-9, Employee Eligibility Verification.

This free, easy-to-use website provides employers and employees simple one-click access to resources, tips and guidance to properly complete Form I-9 and understand the I-9 process.

USCIS Director Alejandro Mayor-

kas said “The release of the Spanish I-9 Central reflects our continued commitment to provide vital, accessible information to our multilingual customers.” The launch of the Spanish I-9 Central is the most recent in a series of resource guides related to USCIS employment – related forms and processes.

Company Settles Discrimination Claim in I-9 Process

A Providence, RI food distributor will pay \$3,190 in civil penalties to settle an employee's charges that it unlawfully "reverified" lawful permanent resident workers' employment eligibility in violation of the Immigration and Nationality Act's anti-discrimination provision, the Justice Department announced on July 20, 2012.

The employee who filed the charge submitted proper work authorization documentation when hired and the company had no reason to be-



UNFI reverified documents of lawful permanent residents but not USCs.

lieve the documentation was invalid. However, when the employee failed to produce an unexpired green card, United Natural Foods Inc. ("UNFI") fired him. The Department of Justice launched an investigation which prompted UNFI to undergo an audit of its internal Form I-9

policies and procedures.

DOJ's investigation ultimately found that UNFI reverified similarly situated lawful permanent residents' expired documentation, but did not reverify that of U.S. citizens.

In addition to paying the civil fine, UNFI agreed to comply with the INA's anti-discrimination provisions and to train its Human Resource personnel not to discriminate in the employment eligibility verification process. The INA bars discrimination based on citizenship status or national origin during the employment eligibility verification process.

Form I-9 Q & A

Question: May employees use a P.O. box as their address in Section 1?

Answer: No, employees may not use P.O. boxes as their address on Form I-9. Employees must list the physical address of their residence in Section 1. If the employee's residence does not have a physical address, he or she should enter a description of the location of his or her residence. The following is an example of an acceptable description—"18 miles southwest of Anytown Post Office near water tower".

Put more simply, the employee must list

where they live, not where they receive their mail.

To learn how to complete, correct and maintain your Form I-9s, register to attend one of the Firm's I-9 Training Sessions. Registration forms can be found on the I-9 Compliance page of our website at www.bollmanfirm.com. Or call us to set up an appointment for an I-9 consultation.

"An employee may not use a Post Office Box as his/her address in Section 1 of Form I-9."

USCIS Announces New Filing Option for Canadian TN Applicants

On October 1, 2012, the United States Citizenship and Immigration Services ("USCIS") began accepting the Form I-129, Petition for Nonimmigrant Worker, filed on behalf of Canadian citizens who are outside the United States and are seeking classification as a TN nonimmigrant. Prior to October 1st, USCIS would only accept I-129 petitions with respect to TN classifications in connection with a

request for a change of nonimmigrant status or an extension of a TN nonimmigrant's stay. Canadian citizens who were outside the U.S. were required to apply to U.S. Customs and Border Protection (CBP) for TN classification at the border. TN applicants still have this option, but may now apply directly to USCIS if they



Canadian TN applicants outside the US may now apply directly to USCIS.

wish. In the past, many TN applicants found that CBP was not as well versed in the TN requirements as USCIS. However, filing with USCIS will take more time for an adjudication. Accordingly, TN applicants should consult with immigration counsel to evaluate which option is best based on the facts of their individual case.

**Patricia A. Bollman,
A Professional Law Corporation**

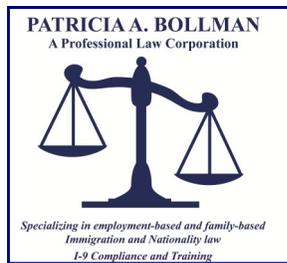
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Just a Note...

Since we opened our doors over six years ago, we have worked to grow our firm in a direction that best serves our clients and community. With the increase in enforcement actions from I-9 audits, to the anti-discrimination provisions related to the I-9 and E-Verify processes and DOL Wage and Hour audits, businesses need to get their "house" in order before the government comes knocking—particularly in light of the substantial fines and penalties being levied.

With the addition of Sal Barrientos, retired ICE Special Agent, as the firm's I-9 and E-Verify Specialist, the firm has expanded its Employment Eligibility Verification services to a level unmatched by other firms in the Gulf Coast area. The Bollman Firm has the capability to handle Form I-9, E-Verify and fraudulent document detection issues for businesses in all industries and of all sizes. We provide an extensive list of services in this area which include: I-9 audits, I-9 and E-Verify training, preparation or review of I-9 and E-Verify policies and procedures, assisting your company in E-Verify registration and representing your business in the event of an audit or investigation by ICE, DOL or the DOJ.

If you think we can be of assistance to your business, please call us. We welcome the opportunity to work with you to make your company fully compliant with the federal and state Employment Eligibility Verification requirements.

Patricia

Update on Deferred Action for Childhood Arrivals

As of October 10, 2012, the United States Immigration and Citizenship Services ("USCIS") had accepted 179,794 applications for Deferred Action for Childhood Arrivals ("DACA"). USCIS also reported having approved 4,591 of these applications, with another 6,416 applications currently under review. Another 158,408 have had biometrics appointments scheduled.

Announced June 15, 2012 and launched two months later, DACA averts deportation of and provides work authorization to illegal immigrants who came to the United States as children and who meet certain criteria, including that they:

- entered the United States when they were younger than 16 years old;
- were under age 31 as of June 15, 2012;

- have continuously resided in the United States since June 15, 2007, and were present in the country as of June 15, 2012, and at the time they request deferred action;
- are currently in school, have graduated from school, have obtained a general education development (GED) certificate, or are honorably discharged veterans of the Coast Guard or U.S. armed forces; and
- have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and do not otherwise pose a threat to national security or public safety.

Additionally, USCIS announced that information on DACA applications related to employers will not be shared with Immigration and Customs Enforcement ("ICE").



DACA averts deportation of and provides employment authorization to illegal immigrants who came to the U.S. as children and who meet certain criteria.