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Employer Slapped With \$600,000 Fine For I-9 Violations

An administrative judge recently handed down a stunning \$605,250 fine against an employer for improperly completing its I-9s. The decision, *U.S. v. Hartmann Studios, Inc.* (OCAHO Case No. 14A00008, July 15, 2015), serves as a reminder that employers need to be taking I-9 compliance as seriously as the government, and that preventative measures such as extensive training and self-audits can help companies avoid the government's crosshairs.

Form I-9 became a part of the U.S. landscape in 1986 with the passage of the Immigration Reform and Control Act. Since that time, many employers have come to take the I-9 for granted, often delegating I-9 compliance and oversight to the most junior human resources or administrative staff. But Form I-9 is the federal government's primary means of policing whether foreign citizens are working in the U.S. illegally. As immigration issues have made bigger headlines in recent years, the government has ramped up its enforcement efforts and employers can no longer afford to be complacent.

Hartmann Studios Inc. was an event design and production company with 719 employees. Immigration and Customs Enforcement (ICE), the federal agency tasked with I-9 enforcement, notified Hartman in early 2011 that ICE would conduct an audit of the company's I-9s, employee lists and payroll records. ICE identified 818 violations with the I-9 forms, uncovered a number of issues with how Hartmann was completing the I-9s, and issued Hartmann a Notice of Intent to Fine (NOI). Hartmann revamped its I-9 processes in response to ICE's NOI.

The majority of the violations concerned Section 2 of the I-9. Section 2 requires an employer representative to review the documents presented by the employee proving identity and work authorization. The employer representative then signs Section 2, acknowledging under penalty of perjury that he or she reviewed the employee's documents. In Hartmann's case, ICE found 797 I-9s where Section 2 was left blank. ICE viewed these as serious

violations, and an administrative law judge agreed, fining Hartmann \$700 for each violation, for a total of \$557,900. Additional violations pushed the fines to \$605,250.

Besides the failure to sign Section 2, the judge also characterized the following as “serious” violations:

- Failure to ensure the employee signs Section 1.
- Failure to ensure the employee checks a box in Section 1 attesting to status as a U.S. citizen, lawful permanent resident, or alien authorized work.
- Failure to ensure the employee enters an alien registration number (A#) in Section 1 after selecting the box for either lawful permanent resident or alien authorized to work.
- Failure to list the driver’s license expiration date in Section 2.

Hartmann argued that efforts to revamp its compliance procedures showed good faith and justified a reduction in the fine amount. But the judge disagreed, noting that Hartmann took no steps to cure the problems with its I-9s and I-9 process until *after* ICE informed the company that it would be fined. The judge further found that Hartmann’s procedures evidenced a general disregard for ensuring its workers were authorized to work under U.S. law. Although the judge reduced the fine from ICE’s recommendation of \$812,665, the judge still felt the seriousness of the violations merited a substantial penalty, noting that “the company does appear to need additional motivation to conform its employment verification processes to what the law requires.”

Hartmann serves as a powerful reminder that the government takes I-9s extremely seriously, and companies must do the same. Although there was no evidence Hartmann was deliberately employing illegal workers, Hartmann’s casual approach to I-9 compliance resulted in huge sanctions. Employers cannot wait until ICE comes knocking to review I-9s and I-9 compliance procedures.

For more information on I-9 procedures and compliance, please contact [Peggy Shukairy](#), [Matt Wagner](#), or another attorney in Frost Brown Todd’s [Immigration Group](#).

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