



Lessons from the South San Diego Restaurant Raid: Insights for Employers on Possible Future ICE Enforcement

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Introduction

In May 2025, the Homeland Security Investigation (HSI) branch of U.S. Immigration and Customs Enforcement (ICE) served over 100 I-9 audit inspection notices to DC area restaurant employers, requiring them to produce their I-9 files within a week. Employers are understandably worried about potential consequences. The recent ICE raid on Buona Forchetta in South San Diego might offer insights into what restaurants in D.C. and other U.S. cities could face soon.

Background Regarding the San Diego Raid

On May 30, 2025, at least 20 masked ICE agents in military gear executed a search warrant at Buona Forchetta, an Italian restaurant group in San Diego. The warrant allowed agents to look for evidence of immigration crimes, including the employment of undocumented workers and false claims of U.S. citizenship made by employees on I-9 forms. Agents, armed and using assertive tactics, detained and interrogated restaurant staff.

Special Agent's Affidavit Reveals Anonymous Tips Triggered the HSI Investigation

The criminal search warrant was obtained based on the affidavit of HSI Agent Michael Hensley. Hensley testified that ICE received a tip on November 1, 2020 – toward the end of the first Trump Administration -- alleging that Buona Forchetta's owner hired undocumented workers, required them to work 12-hour shifts without breaks, and subjected them to mental and verbal abuse. At the start of the second Trump Administration, on January 31, 2025, ICE received a second tip



reporting the employment of unauthorized workers at Buona Forchetta, triggering a formal investigation into potential immigration violations.

Scrutiny of Employee Green Cards and Immigration Histories

On February 20, 2025, ICE initiated an audit of Buona Forchetta, requiring the restaurant to produce I-9 forms within three business days. The restaurant's counsel submitted 40 I-9s for active employees. Hensley's affidavit stated that HSI auditors identified 19 fraudulent green cards, representing 47.5% of the workforce. The fraud was detected through discrepancies in immigration databases and visible signs on the photocopies of the documents, such as poor printing quality and inconsistent holograms.

Document and Immigration Fraud Allegations

Hensley's affidavit includes detailed descriptions and color samples of various green card versions issued by U.S. Immigration and Citizenship Services since 1996, along with black and white photographs of legitimate green cards produced by Buona Forchetta in response to the I-9 audit notice. Hensley identified noticeable discrepancies between authentic and alleged fraudulent cards, such as incorrect font and wave patterns above photographs, inconsistent font sizes in biographical data, and missing or improperly designed date of birth information. Investigation into the immigration histories of five Buona Forchetta employees revealed no permanent resident status, U.S. citizenship, or valid work authorization at hire. Additionally, twelve employees presented fraudulent green cards with mismatched or nonexistent A-numbers. Based on training and experience, Hensley testified that these employees were likely present in the U.S. illegally and without work authorization.

Justification for Broad Search of the Employer's Business and Employment Records

Hensley posited that employers might exploit undocumented workers by disregarding labor laws for financial gain. He suggested that business records like timecards and payroll details would assist in verifying employment circumstances. He argued that the I-9 audit information was incomplete and advocated for a search of the business premises for comprehensive records.



Surveillance Activity Immediately Prior to Seeking the Criminal Search Warrant

The affidavit outlined HSI surveillance conducted near the restaurant from May 22-25, 2025. Agents identified twelve individuals based on I-9 photos, alleging them to be working illegally with counterfeit green cards. Based on agent observations, HSI justified the time and manner for execution of the search warrant.

The affidavit also detailed the plan for executing the warrant, including arresting, detaining, and fingerprinting employees to identify those who were illegally present in the U.S. and used fake documentation in the I-9 process. It specified the records needed as evidence of various offenses, including employing unauthorized aliens, deliberately hiring undocumented workers, making false statements on government forms, falsely claiming U.S. citizenship, fabricating immigration documents, and using fake social security numbers. The records included in the affidavit encompassed employment files, payroll information, banking details, employee schedules, applications, video recordings, photographs, verification documents, Social Security No-Match letters, DHS correspondence, identification information, and documents related to ownership and recruitment.

Future Investigative Activity, Prosecution and Penalties.

Further details about the HSI investigation are currently unavailable. HSI agents and federal prosecutors are reviewing evidence from the search and interrogating arrested employees to determine next steps. Prosecutors will decide whether to seek federal indictments from a grand jury.

Employers who knowingly hire 10 or more unauthorized aliens in a year may face fines up to \$250,000 for individuals or \$500,000 for corporations, and up to 5 years of imprisonment. A pattern of hiring unauthorized aliens can result in additional fines of up to \$3,000 per individual and up to 6 months of imprisonment. Buona Forchetta could also face civil penalties for such violations, with fines ranging from \$375 to \$3,200 per unauthorized alien for a first offense. These are potential charges and liabilities, and the government must prove all charges and penalties.



Five Take Aways from the Buona Forchetta Experience

1. Acknowledge You Operate in a Fishbowl and Manage Accordingly

The Buona Forchetta investigation sprang from anonymous tips about the restaurant employing unauthorized workers, making them work long hours without breaks, and subjecting them to mental and verbal abuse. Prosecutors often target abusive employer behavior. For instance, Leona Helmsley in the 1980's was convicted of tax fraud partly due to a former employee's testimony about her abusive behavior. It's crucial to have an open-door policy for employees to report human resources concerns promptly and fairly. If you don't have one, institute it immediately.

2. I-9 Compliance is Non-negotiable

Employers must ensure full compliance with federal hiring requirements, including the proper completion and retention of I-9 forms. Conducting regular internal audits of employment records can assist in identifying discrepancies and rectifying issues proactively. The raid in San Diego underscores the importance of maintaining accurate documentation to prevent scrutiny and enforcement actions. Employers should not anticipate leniency if they adopt lax policies regarding I-9 document reviews. Although employers may not need to be experts in document fraud, the Hensley / Buona Forchetta affidavit indicates that the current Administration demands a higher level of scrutiny than previous administrations and intends to prosecute employers to the fullest extent of the law for accepting questionable green cards.

For over 15 years, ICE's I-9 audit process has involved issuing a Notice of Suspect Documents (NOSD) to identify employees with invalid or questionable documents. Employers had 10 days to have these employees complete new I-9 forms with valid documents or terminate them to avoid liability. The current Administration may bypass the NOSD process, presuming employer bad faith if many fake documents are found and a tipster suggests the employer knew. The Hensley / Buona Forchetta affidavit shows how HSI/ICE may plan to use evidence of fraudulent green cards to obtain a broad criminal search warrant.



3. Require I-9 Compliance Training

Completing I-9s properly is not intuitive and requires training – both in the procedural requirements and document verification. At a minimum, every individual charged with completing I-9s should be required to read and follow the instructions contained in the Handbook for Employers, M-274, available online at <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274>. Color samples of authorized versions of Form I-551 (green cards) can be found at <https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/130-acceptable-documents-for-verifying-employment-authorization-and-identity/131-list-a-documents-that-establish-identity-and-employment-authorization>, within the online handbook. These samples are identical to those contained in Special Agent Hensley's probable cause affidavit.

4. Hold Managers Accountable for Immigration Compliance

Hold management staff responsible for ensuring compliance with U.S. immigration hire and retention requirements, including the duty to report suspected violations promptly for investigation and follow up.

5. Legal Counsel is Essential

Employers are advised to work closely with immigration, labor, and criminal defense attorneys in anticipation of ICE enforcement actions. Legal professionals can assist in reviewing employment practices, responding to Notices of Inspection (NOIs), and representing businesses facing criminal allegations. Understand your obligations. Know your rights. Be prepared.