

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

_____)	
UNITED STATES OF AMERICA,)	
Complainant,)	8 U.S.C. § 1324c Proceeding
)	
v.)	
)	OCAHO Case No. 96C00027
PEDRO DOMINGUEZ,)	
Respondent.)	Judge Robert L. Barton, Jr.
_____)	

ORDER REQUIRING COMPLAINANT TO LIST PENALTY FACTORS
(November 17, 1997)

In its Statement of Disputed Issues filed on November 12, 1997 Complainant lists seven disputed issues, but it states that it intends to offer further evidence only on three of the issues, namely issues numbered IV, V, and VII. The issues on which Complainant proposes to offer evidence are whether Respondent's possession, custody and control after the documents were made constitutes possession within the meaning of section 1324c(a)(2) (Issue IV); whether certain I-94 documents referenced in Count II were "provided" within the meaning of section 1324c(a)(2) (Issue V); and what amount of civil money penalty should be assessed in this case (Issue VII). In its Second Amended Witness List Complainant has listed eight potential witnesses and indicates that all will testify regarding the penalty issue, among other things.

Given the central importance of the penalty issue, I am ordering Complainant to file a memorandum, not later than November 24, 1997, identifying specifically each of the factors which it contends the Court should consider in assessing a penalty in this case. If the factors differ as to each count, Complainant shall so specify. As to any factor which is not included in its penalty memorandum, Complainant may not be permitted to offer evidence and may be estopped from seeking to rely on such a factor at the hearing or in its post-hearing submission.

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 1997, I have served the foregoing Order Requiring Complainant to List Penalty Factors on the following persons, by first class mail (unless otherwise indicated), at the addresses shown:

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