

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

UNITED STATES OF AMERICA,)
Complainant,)
)
v.) 8 U.S.C. 1324a Proceeding
) Case No. 90100301
NEW PEKING, INCORPORATED,)
d/b/a NEW PEKING)
RESTAURANT,)
Respondent.)
_____)

ACTION BY THE CHIEF ADMINISTRATIVE HEARING
OFFICER ON COMPLAINANT'S MOTION FOR RECONSIDERATION

On May 21, 1991, the Honorable Frederick C. Herzog, the Administrative Law Judge (hereinafter ALJ) assigned to this matter, issued a final decision and order in the above styled case. In the final decision and order, the ALJ interpreted 8 C.F.R. §274a.2(b)(1)(i)(A) as including a three day period in which employees may complete section 1 of the Form I-9. ALJ's Decision and Order at 4.

The complainant timely filed a request for administrative review on May 31, 1991. On June 18, 1990, I issued an order modifying the decision and order of the ALJ. (hereinafter CAHO's Modification). I held that the complainant's interpretation would stand, (i.e., that employers must ensure completion of section 1 of the Form I-9 at the time of hire) but respondent could not be held liable for failing to ensure completion of section 1 given the surrounding circumstances. CAHO's Modification at 9.

On June 25, 1991, the complainant filed a motion for reconsideration of my modification. The motion requests me to reconsider the modification and find that liability must attach to the respondent with respect to the remaining paperwork violation, and impose a civil money penalty or remand the case to the ALJ to determine an appropriate civil money penalty.

2 OCAHO 339

I have taken into consideration the arguments asserted in complainant's memorandum in support of the motion for reconsideration. I find no basis, either in law or in fact, which would compel me to alter my modification. Therefore, my modification order dated June 18, 1991, stands.

SO ORDERED this 2nd day of July, 1991.

JACK E. PERKINS
Chief Administrative Hearing Officer