

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

United States of America, Complainant v. Lawrence H. Harrold d/b/a/
Diamond Pallet Company and/or Harrold's Pallet, Respondent; 8 U.S.C.
1324a Proceeding; Case No. 89100470.

JUDGMENT BY DEFAULT

JAMES M. KENNEDY, Administrative Law Judge:

On September 20, 1989, a complaint was issued by the United States alleging that Respondent, Lawrence H. Harrold, had engaged in certain violations of the Immigration and Nationality Act, specifically 8 U.S.C. Sec. 1324a. On September 22, 1989, the Executive Office for Immigration Review, through the Acting Chief Administrative Hearing Officer served a Notice of Hearing on Complaint Regarding Unlawful Employment. In that Notice Respondent was advised that he must file an answer within 30 days of the receipt of the complaint and that if he failed to file a timely answer he could be deemed to have waived his right to appear and contest the allegations set forth in the complaint and that an Administrative Law Judge could enter a judgment by default together with any and all appropriate relief. On October 24, Respondent filed a motion for extension of time in which to file an answer; the motion was granted on October 25, setting November 14, 1989, as the new due date for the filing of an answer. No response was received from Respondent within the time allotted.

On November 20, 1989, the Complainant filed a Motion for Default Judgment asserting that Respondent had failed to timely file an answer or otherwise defend the complaint. It seeks the entry of an order requiring Respondent to cease and desist from violating 8 U.S.C. Sec. 1324a(a)(1)(A) and/or 8 U.S.C. Sec. 1324a(2) [which prohibit employers from hiring or continuing to employ aliens unauthorized to work in the United States]; an order directing Respondents to comply with 8 U.S.C. Sec. 1324a(1)(B) [which requires employers to verify their employees' eligibility to work in the United States and through 8 U.S.C. Sec. 1324a(b)(3) requires them to retain

the verification forms for a period of 3 years]; and an order requiring Respondent to pay a civil monetary penalty of \$4000.00 as set forth in the Notice of Intent to Fine attached to the complaint [see 8 U.S.C. Sec. 1324a(e) (4) and (5)].

On November 28, 1989, I issued a show cause order requiring Respondent to file, copy to Complainant, on or before December 12, 1989, a written statement setting forth the reasons why the motion for default judgment should not be granted.

On December 13, I received an ex parte communication from Respondent, apparently in response to my show cause order. I promptly caused a copy of that letter to be transmitted to the Complainant. Respondent's letter does not constitute a sufficient response to the show cause order nor is it adequate as an answer. In the letter, Respondent professes his belief that the charges are without merit and requests an opportunity to question the putative employees. Respondent has been repeatedly warned that a failure to file a timely answer would result in the entry of a default judgment against him. Despite these warnings, Respondent has defaulted. Accordingly, a judgment will be entered against him, as his failure to file a timely answer must be deemed to constitute a waiver of his right to contest the allegations of the complaint. See 28 C.F.R. Section 68.8(b). Judgment will be entered in the amount stated in the complaint.

As the allegations of the complaint are uncontroverted, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. After November 5, 1986, Respondent hired for employment, or continued to employ, in the United States the following individuals, knowing that they were aliens not lawfully admitted for permanent residence or not authorized by the Immigration and Nationality Act or by the Attorney General to accept employment:

- a. Jesus Berrones-Robles a/k/a Jesse Robles
- b. Jesus Arellano-Venegas

2. After November 6, 1986, Respondent failed to properly verify, on a verification form, designated by the Attorney General as Form I-9, the employment eligibility of the above-named employees.

3. By its employment of the employees listed in paragraph 1 above, Respondents have violated 8 U.S.C. Sec. 1324a(a)(1)(A) and/or 8 U.S.C. Sec. 1324a(a)(2).

4. By its failure to verify the employment eligibility of the employees as described in paragraph 2. above, Respondents have violated 8 U.S.C. Sec. 1324a(a)(1)(B).

Based on the foregoing findings of fact and conclusions of law, I hereby issue the following:

ORDER¹

Respondent, Lawrence H. Harrold d/b/a Diamond Pallet Company and/or Harrold's Pallet, shall:

1. Cease and desist from violating the prohibitions against hiring or continuing to employ unauthorized aliens, set forth in 8 U.S.C. Sec. 1324a(a)(1)(A) and/or (a)(2).

2. Comply with the verification requirements of 8 U.S.C. Sec. 1324a(b) with respect to individuals hired by insisting upon the presentation of properly completed I-9 Forms and by retaining them for a period of 3 years.

3. Pay a total civil monetary penalty in the amount of \$4000.00 calculated as follows: \$3000.00 for two violations of 8 U.S.C. Sec. 1324a(a)(1)(A) and/or (a)(2); and \$1000.00 for two violations of 8 U.S.C. Sec. 1324a(a)(1)(B).

IT IS FURTHER ORDERED that the hearing in this matter scheduled for January 23, 1990 be, and hereby is, CANCELLED.

JAMES M. KENNEDY
Administrative Law Judge
San Francisco, California
December 14, 1989

¹Review of this final order may be obtained by filing a written request for review with the Chief Administrative Hearing Officer within 5 days of this order as provided in 28 C.F.R. Sec. 68.51. This order shall become the final order of the Attorney General unless, within 30 days from the date of this order, the Chief Administrative Hearing Officer modifies or vacates it.