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ICE TARGETS ALABAMA BUSINESSES WITH I-9 AUDITS

As part of its long-term strategy to address and deter illegal employment, the U.S. Immigration and Customs Enforcement (“ICE”) announced yesterday that it is inspecting over 30 Alabama businesses for compliance with employment eligibility verification laws. This wave of Notices of Inspections (“NOI”) also targets 150 businesses in Mississippi, Arkansas, Louisiana and Tennessee.

Along with the NOI’s, employers are being served with administrative subpoenas requesting production of all I-9s for current employees and terminated employees within the last three years; copies of quarterly wage and hour reports; other payroll data and business information of the employer, including copies of the Articles of Incorporation and copies of all Social Security Administration “No Match Letters” received during the period of inspection. The subpoenas also ask for information regarding the employer’s participation in E-Verify.

Audits involve a comprehensive review of Form I-9s, which employers are required to complete and retain for each individual hired in the United States. I-9 forms require employers to review and record each individual’s identity and work eligibility document(s) and determine whether the document(s) reasonably appear to be genuine and related to that specific individual.

Employers that are not compliant with the I-9 employment verification requirements could face civil fines for violations that range from \$100 to \$1,100 for each individual depending on when that individual was hired. An employer that is found to have knowingly hired or



knowingly continued to employ unauthorized workers could face fines, and civil penalties, and even criminal penalties.

The increased focus on employer enforcement illustrates the need for employers to be proactive in terms of employment eligibility verification compliance and training programs. Also, in the event of an audit, employers need to know what ICE is authorized to do and what limitations exist on its authority.

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