

PUBLICATION

Historic \$95M Fine Issued Against Company for Hiring Undocumented Workers

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Asplundh Tree Expert Company has been ordered by Immigration and Customs Enforcement (ICE) to pay \$95 million in fines and civil penalties after admitting to employing undocumented immigrants. The penalty is the largest ever issued by ICE and concludes a six-year investigation into the company's hiring and employment practices.

Asplundh pled guilty to unlawfully employing aliens, and prosecutors claimed that the highest levels of Asplundh management remained "willfully blind" while lower level managers hired and rehired employees they knew to be ineligible to work in the United States. Hiring was by word of mouth referrals rather than through any systematic application process and the U.S. attorney's office in Philadelphia said Asplundh employed thousands of unauthorized workers between 2010 and 2014. This manner of hiring enabled supervisors and general foremen to hire a work force that was readily available and at their disposal, which allowed the company to dominate the market. As part of Asplundh's guilty plea, the company must pay \$80 million in criminal forfeiture to the government as well as an additional \$15 million to satisfy civil claims for failure to comply with immigration law.

ICE issued the following statement: "Today marks the end of a lengthy investigation by ICE Homeland Security Investigations into hiring violations committed by the highest levels of Asplundh's organization. Today's judgment sends a strong, clear message to employers who scheme to hire and retain a workforce of illegal immigrants: we will find you and hold you accountable. Violators who manipulate hiring laws are a pull factor for illegal immigration, and we will continue to take action to remove this magnet."

ICE workforce investigations usually involve egregious violations of criminal statutes by employers and widespread abuses. Investigations may also include alien smuggling, alien harboring, document fraud, money laundering, fraud, or worker exploitation. ICE also investigates employers who employ force, threats, or coercion (for example, threatening to have employees deported) in order to keep the unauthorized alien workers from reporting substandard wage or working conditions. By uncovering such violations, ICE can send a strong deterrent message to other employers who knowingly employ illegal aliens.

The fine and penalties issued against Asplundh serve as a strong reminder that all employers in the U.S. should remain vigilant in their hiring practices and ensure they remain in compliance with immigration rules and regulations at all times. Employers should engage in periodic and comprehensive I-9 audits, provide training and guidance to managers and supervisors for the proper hiring and employment of foreign national workers, and develop a corporate compliance policy on employment eligibility verification. In addition, several announcements made by the U.S. Department of Justice, U.S. Citizenship and Immigration Services, and the Department of Labor all confirm the Trump Administration's aim to increase enforcement activities and compliance investigations. Employers in the U.S. must be prepared to protect themselves from liability and proactively ensure that their hiring practices are compliant and that best practices are in place for their immigration policies. Baker Donelson's Immigration Group offers robust compliance management and audit representation for employers in any industry, and such audits are designed to help employers assess vulnerability and address any potential exposure to risk.