

Abercrombie & Fitch Fined \$1 Million After I-9 Audit

October 04, 2010

The U.S. Immigration and Customs Enforcement (ICE) announced September 28, 2010 that it had settled with clothing retailer Abercrombie & Fitch on a fine in excess of **\$1,000,000** for violations of the Immigration and Nationality Act. The violations related to an employer's obligation to verify its workers for employment eligibility. The company was **not** in violation of knowingly hiring unauthorized workers in the investigation. Instead, this case **focused on technology-related deficiencies** in Abercrombie & Fitch's electronic I-9 system, and began in November, 2008, with an I-9 inspection of the company's retail stores in Michigan. A&F has since implemented new procedures, and re-tooled its immigration compliance program.

Under the Immigration and Reform Act of 1986, employers are required to complete and retain a Form I-9 for each employee, and must review original documentation for identity and employment eligibility to determine if the documents reasonably appear to be genuine and relate to the person. It's important to note that although guidance was issued in an interim I-9 regulation in 2006, the final regulation was not issued until July 2010.

Presently, WorkLife HR provides online e-Verify services for all clients who are required by law to utilize this system for authorization of workers. Three states (AZ, MS, SC) all have state laws requiring the use of the e-Verify system for all employees. In addition some federal contractors and sub-contractors are also required to process their employees through e-Verify. As an added service, all employees entered into the WorkLife HR payroll system must have their I-9's reviewed by staff for compliance. These added services will support your efforts in attaining compliance with the Immigration and Nationality Act.

"Employers are responsible not only for the people they hire, but also for the internal systems they choose to utilize to manage their employment process, and those systems must result in effective compliance," said Brian M. Moskowitz, special agent in charge of ICE's Homeland Security Investigations for Ohio and Michigan.

The hefty fine serves as a reminder that companies must ensure that their I-9 process, including electronic and other employment verification procedures, are fully compliant, and undergo legal review and assurances for meeting the high standards required for full immigration compliance.

"We are pleased to see Abercrombie working diligently to complete the implementation of an effective compliance system; however, we know that there are other companies who are not doing so. ***This settlement should serve as a warning to other companies that may not yet take the employment verification process seriously or provide it the attention it warrants,***" said Moskowitz.

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WorkLife HR's support staff has been trained on form I-9 review and documentation requirements at both the federal and state levels. Utilizing their guidelines will assist you in attaining and maintaining compliance with all regulations pertaining to the Form I-9 completion, storage, and retrieval. This is why WorkLife HR stresses that our clients forward their Form I-9's immediately upon completion, so our staff may ensure the form is compliant with regulations. WorkLife HR personnel will not enter an employee into the payroll system without a timely and compliant Form I-9. Therefore, a client's timely response is essential when changes to the form are required.

Should you have a question arise concerning completion of the form, documents presented by the employee for the form, or recordkeeping requirements, contact the HR Support Team at (888) 344-3794.

NOTE: *There are an estimated 11 million undocumented people in the U.S. and 7.8 million unauthorized workers were in the labor force in 2009, according to the PEW Research Report from September 1, 2010.*

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