

## Abercrombie & Fitch Immigration Fine: A Lesson for Employers

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On September 28, 2010, U.S. Immigration and Customs Enforcement (ICE) announced that it was fining clothing retailer Abercrombie & Fitch \$1.05 million for violations of its obligation to verify the employment eligibility of its workers. The settlement was the result of an audit of the I-9 records for Abercrombie & Fitch's retail stores in Michigan. The audit uncovered numerous deficiencies in the company's process for completing and retaining its I-9 records. "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 Office of Homeland Security Investigations (HSI) in Ohio and Michigan. **"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."** The ICE press release indicated that these fines were levied despite the fact that the government discovered no evidence that the company employed unauthorized workers.

Employers must complete and retain an I-9 Form for each individual they hire for employment in the United States, regardless of whether the worker is a U.S. citizen or foreign national. This process requires employers to review and record each employee's identity and employment eligibility documents. Failure to comply with I-9 requirements may result in sizeable fines and/or charges of criminal misconduct.

The I-9 inspections are the result of the Obama Administration's strategy to reduce the demand for illegal immigrant employment and protect employment opportunities for the nation's lawful workforce. Under this strategy, ICE is focusing its resources on worksite audits and investigations. In the past year, ICE has leveled a record number of civil and criminal penalties against employers who violate immigration laws related to the I-9 process, which were established by the Immigration Reform and Control Act of 1986.

Employers should ensure that their immigration compliance policies, I-9 preparation/retention processes and I-9 records are up to date in order to make sure they are in compliance with the law and to avoid liability.

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