

STATE OF IOWA

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] ss:

AFFIDAVIT

COUNTY OF LINN

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I, David M. Hoagland, being duly sworn, depose and state:

**TRAINING AND EXPERIENCE OF THE AFFIANT**

1. I, David M. Hoagland, make this affidavit in support of a search warrant of the premises of Agriprocessors, Incorporated, Postville, Iowa (hereinafter "Agriprocessors"). I am a Senior Special Agent with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), Office of Investigations in Cedar Rapids, Iowa. I have been employed with this agency since July 1991. ICE agents are authorized to investigate violations of offenses found in Title 8, Title 18, and Title 19 (Customs) of the United States Code.

**INTRODUCTION**

2. As a normal procedure of hiring employees in the United States, an employer must ascertain whether a potential employee is a United States citizen or lawfully present in the United States. As part of that hiring process, the employer is required to have the applicant for employment provide certain prescribed documents. These documents could include a United States passport, a birth certificate, a social security card, a Form I-551 (sometimes referred to as a Permanent Resident Alien card or "green card"), and various other proscribed documents. The employee initially fills out the first section of an immigration Form I-9 and indicates in the appropriate blocks whether they are a citizen or national of the United States eligible for employment, a lawful permanent resident, or a foreign national with authorization for employment in the United States. With regard to the last two options, the employee also must provide an immigration "A" number issued by the Department of Homeland Security.

The employee then signs that portion of the form. The employer must complete the second portion of the form based upon the document(s) provided by the applicant for employment and indicate the type of document(s) and any number (e.g., social security number) associated with it. Additionally, the employer certifies that the employer has reviewed the document(s) presented and the employer believes the applicant is eligible for employment in the United States. The employer is required to sign this portion of the form. In section 3 of the form, employers must periodically re-certify that the applicant continues to be eligible for employment. The employer must maintain the original I-9 and must produce it upon request of the Department of Homeland Security. Employers are required to retain I-9 forms for three years after the date of hire or for one year after employment is terminated, whichever is later. It is a common practice for employers to attach to an I-9 form photocopies of any documents produced by the employee in support of statements made on the I-9 form.

3. I am aware of the information set forth below through personal investigation, review of investigative reports, review of Social Security Administration ("SSA") documents, review of Iowa Workforce Development ("IWD") records, review of other public documents, discussions with IWD personnel, and discussions with other law enforcement officers. IWD is a State of Iowa government agency that works in conjunction with the Iowa Department of Labor and is a repository of documents for employees working in the state of Iowa.
4. Over at least the last two years, ICE has received information concerning immigration offenses at and by employees of Agriprocessors, including allegations of harboring illegal aliens in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii), 1324(a)(1)(A)(iv), 1324(a)(1)(A)(v)(II), and 1324(a)(1)(B)(I); engaging in a pattern or practice of hiring and continuing to employ undocumented aliens in violation of Title 8, United States Code, Sections 1324a(a)(1)(A), 1324a(A)(2), and 1324a(f)(1);

document fraud in violation of Title 18, United States Code, Section 1546; misuse of social security numbers in violation of Title 42, United States Code, Section 408(a)(7)(B); and aggravated identity theft in violation of Title 18, United States Code, Section 1028A(a)(1). This Affidavit sets forth some, but not all, of the information ICE and other law enforcement officers possess concerning potential violations of the above-referenced statutes and potentially other criminal laws, but rather, is a summary of evidence in ICE's possession sufficient to establish probable cause to support this search warrant.

5. This criminal search warrant is sought simultaneously with an application for a so-called *Blackies* warrant<sup>1</sup> and in connection with the issuance of 697 criminal complaints and arrest warrants against persons believed to be current employees of Agriprocessors for which the court determined there was probable cause to believe those people violated federal criminal laws. Of the approximately 697 charged by complaint, the government currently possessed copies of photo identification for only about 15 individuals. Based upon the entire investigation to date, it is believed the photo identification cards depict the actual person who has possessed and used the identification. These photos will assist in identifying persons using the name on the photo identification. However, for the vast majority of subjects, the government does not possess photo identification using the alias name on the complaint and warrant. It will be necessary to attempt to identify, among those present at the facility during the search, those individuals for whom there are currently arrest warrants. Further, based on the information developed in the criminal investigation, there is reason to believe there will be other employees present at the Agriprocessors facility whose lawful authority to reside and work in the United States is unknown, or who lack such authority. Accordingly, in conjunction with the execution of this criminal search warrant, ICE intends

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<sup>1</sup> A "Blackie's warrant" is so-named because of the case of Blackie's House of Beef, Inc. v. Castillo, 659

to question any alien or person found on the Agriprocessors property believed to be an alien as to his or her right to be or remain in the United States (8 U.S.C. § 1357(a)(1), for purposes of determining whether the alien should be administratively processed for removal from the United States.

### **AGRIPROCESSORS**

6. Agriprocessors is a large multi-building meat processing complex located at 220 West Street (also known as 220 North West Street), Postville, Iowa 52162. Agriprocessors opened in Postville in 1987 and now includes most of the land and buildings in the area formerly occupied by Iowa Turkey Products, Incorporated. The company is owned and operated by the Rubashkin family, one member of which, Sholom Rubashkin, is the Vice-President.
7. Agriprocessors is in the business of slaughtering and processing of kosher and non-kosher meat products. In its advertising, Agriprocessors claims to be the largest kosher slaughterhouse in the nation. Agriprocessors processes beef, poultry, chicken, veal, lamb, and turkey.
8. Agriprocessors' facility in Postville consists of an approximately 60-acre site on which there are many buildings. The facility is divided by railroad tracks, with the majority of the buildings located on the north side of the tracks. On the south side of the tracks, Agriprocessors has several buildings devoted to turkey production. Both portions of the facility are surrounded by a wire fence with multiple gates. Also on the property are administrative buildings located on the east side of the north portion of the property. All known areas of meat processing are located in the buildings within the areas labeled A and B as outlined on Exhibit 1, an aerial photograph of the Agriprocessors facility attached to this Affidavit. The building within area C is an administration building. The land area labeled A and C is owned by Agriprocessors. The land area labeled B is owned

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F.2d 1211 (D.C. Cir. 1981).

by Nevel West Estates, Inc. (a/k/a Nevel Properties, Inc.), whose registered agent is Sholom Rubashkin (Vice-President of Agriprocessors).

On the south side of the railroad tracks, the land areas labeled A and B meet, are contiguous with no barrier between them, and form part of the same operating facility at Agriprocessors. Each of the approximate areas depicted as A and B on Exhibit 1 are surrounded by a chain link fence.

9. Statistics retrieved from the Internet ([www.agriprocessors.com](http://www.agriprocessors.com)) reveals an estimated 800 employees working at Agriprocessors. Information received from IWD reveal an estimated average of 900 employees working at the plant.
10. Based on information from Source #7, set out below in more detail, Agriprocessors provides most of its employees with identification cards, also called electronic swipe or proximity cards, used for identifying employees. These cards are required for access to the Agriprocessors plant and allow access by employees to certain portions of the facility. These cards also appear to serve the function of a time card, recording when an employee clocks in and out of work. The swipe cards have the name of the employee affixed on the back of the card. Further details about this system are set out in subsequent paragraphs.
11. Based on information from Source #7 (who is further identified in the Source Information below), Agriprocessors pays most of its employees by checks that are computer generated. A copy of a letter sent to an employee in May of 2007 concerning the fact that the employee's social security number did not match his/her name appears to be generated on a computer, using a word processor. Within the last two years, ICE agents have been present numerous times in the Agriprocessors administrative building while obtaining I-9 forms relating to employees of Agriprocessors and have observed computers in the office. Therefore, it is believed Agriprocessors uses computers in its business and does so specifically with regard to employment documents. When conducting criminal investigations of aliens employed at Agriprocessors during the

past several years, ICE Special Agents have observed the Human Resources Manager retrieve the original I-9 forms from a binder in the Human Resources Manager's desk. The same Human Resources Manager has been employed at Agriprocessors for several years, and remains in the same position as of the date of this application.

12. Based on information from Source #7, Agriprocessors also maintains a biometric identification system for most of its employees. The system works by having each employee place their hand on a device that "reads" biometric data from the hand. This appears to identify the employee and also serve as a time clock. On April 25, 2008, Source #7 reported that s/he was able to note the make and model of the biometric scanner used by employees at Agriprocessors. The manufacturer of the scanner is Ingersoll Rand, and the model was Hand Punch 4000. An Ingersoll Rand product brochure for the Hand Punch 4000 states that the system "uses the size and shape of your employee's hand to verify their identity each time they punch. No fingerprints or palm prints are utilized" . . . "The terminal is fast and easy for anyone to use. Any employee's identity is verified in less than one second." The brochure indicates that the system also can track employee schedules, hours worked, and other information. The system has a reported capacity of up to 3,498 users and can be used in conjunction with a proximity or magnetic swipe card. An Internet search of Ingersoll Rand's website resulted in a further description of the device as a Hand Punch Biometric Time and Attendance Terminal Model 4000. Further details about this system are set out in subsequent paragraphs.
13. Based on information from Source #7, employees are provided with lockers or individual storage areas ("cubby holes") for storing personal items, including in some cases wallets and other items that may contain identification information. Most employees are also required to carry on their person the identification card issued by Agriprocessors and may also carry other forms of identification.

14. Employees are issued pay checks at the Agriprocessors facility. The pay checks have a detachable pay stub which contains pay and identity information. In some cases (more fully explained below) these checks may be issued in names other than the true name of the employee or the name under which the employee is working at Agriprocessors. The checks also exhibit the Social Security number under which the employees are working. Based on the observations of Source #7, who has seen other employees with checks while at the Agriprocessors facility, some employees may have these pay checks or pay stubs on their persons.

### **FORMER SUPERVISOR**

#### **Source #1**

15. ICE Special Agents interviewed Source #1 on November 6, 2007, in reference to information originally provided to DHS/ICE in January 2006, that an Agriprocessors Human Resources Manager was hiring numerous illegal workers. Source #1 said s/he was a former employee of Agriprocessors and had worked there as a supervisor from approximately 2005 until approximately 2006. Source #1 stated that Agriprocessors employed approximately 3,000 workers at the plant, farms, and other businesses and property.
16. Source #1 stated that nationals of Mexico, Guatemala, and Eastern Europe were under the Source's supervision, and the Source estimated 80% of these employees were illegally present in the United States. Source #1 stated there was an incident at Agriprocessors where Source #1 discovered active drug (methamphetamine) production in the plant. Source #1 stated the methamphetamine lab was partially destroyed by Source #1. This led to a physical confrontation with Source #1's immediate supervisor. Source #1 believes the incident led to Source #1's termination. Source #1 stated there were incidents of weapons being carried in Agriprocessors. However, the Source was not sure if they were being traded for drugs or being sold.

17. Source #1 stated that Agriprocessors is owned by Aaron Rubashkin, who resides in New York, and that the day-to-day operations at the plant were conducted by Heseshy and Sholom Rubashkin. Source #1 said there are Rabbis employed at Agriprocessors who Source #1 believed entered the United States from Canada without appropriate immigration documents. Source #1 did not provide the basis for this belief.
18. Source #1 described a conversation with the Agriprocessors Human Resources Manager at her office concerning three separate social security cards from three separate employees that contained the same social security number. Source #1 stated the Human Resources Manager laughed when this matter was brought to her attention.
19. Source #1 stated the Human Resources Manager appeared to have a large amount of money. In a conversation Source #1 had with the Human Resource Manager's son, who was also employed at Agriprocessors at the time, the son bragged about the significant amount of money his mother had. Source #1 also discussed a conversation Source #1 had with the Human Resources Manager regarding Agriprocessors' employees' taxes and the fact they were deducted and deposited and placed in bank accounts belonging to an unknown person or persons.

#### **PAST ARRESTS OF UNDOCUMENTED ALIENS**

20. On or about August 30, 2007, ICE Special Agents processed a request from the Iowa Department of Public Safety for assistance in identifying individuals who were involved in an altercation that had occurred in Postville, Iowa. The information resulted in the arrests by ICE Special Agents and federal prosecution of three subjects. The three subjects, identified as Source #2, Source #3, and Source #4, all said they were foreign nationals unlawfully present in the United States.

#### **Source #2**

21. Source #2, after being advised of *Miranda* rights in the Spanish language and waiving those rights, stated the source's employment at Agriprocessors began in 2005. During the employment application



- process, Source #2 presented a fraudulent Permanent Resident Alien Card ("Form I-551") (bearing number XX-XXX-823) and a fraudulent social security card (bearing number XXX-XX-3641) to Agriprocessors. Source #2 stated the Source's employment was terminated in 2007. Source #2 stated the Source had never applied to Citizenship & Immigration Services (hereinafter "CIS") for authorization to reside or work in the United States.
22. Pursuant to an inquiry by ICE Special Agents, Agriprocessors provided an Employment Eligibility Verification Form (hereinafter "Form I-9") apparently filled out and signed by Source #2. The Form I-9 was certified by the Human Resources Manager. The Form I-9 was accompanied by a photocopy of the fraudulent Form I-551, number XX-XXX-823, presented by Source #2 to gain employment at Agriprocessors.
23. An ICE indices check conducted by ICE Special Agents on Source #2 was negative, noting that lawful status in the United States had not been previously granted to the subject. A NCIC search of Source #2's fingerprints revealed a prior misdemeanor Operating While Intoxicated charge.

Source #3

24. Source #3, after being advised by ICE Special Agents of *Miranda* rights in the Spanish language and waiving those rights, stated the Source's employment at Agriprocessors began in 2003 or 2004. During the employment application process, Source #3 presented a fraudulent Form I-551 (bearing number XX-XXX-267) and a fraudulent social security card (bearing number XXX-XX-8944) to Agriprocessors. Source #3 stated his/her employment was terminated sometime in 2004. Source #3 stated his/her employment was reestablished at Agriprocessors sometime in 2005. Source #3 again presented a fraudulent Form I-551 (bearing number XX-XXX-267) and a fraudulent social security card (bearing number XXX-XX-8944). Source #3 stated his/her employment was

- terminated sometime in 2007. Source #3 stated the Source never applied to CIS for authorization to reside or work in the United States.
25. Pursuant to an inquiry by ICE Special Agents, Agriprocessors provided a Form I-9 apparently filled out and signed by Source #3. The Form I-9 was not certified by Agriprocessors as required by law; however, handwritten in the Business or Organization Name and Address block was "Agriprocessors, Inc. 220 West Street, PO Box 920, Postville, Iowa 52162." The Form I-9 was accompanied by a photocopy of the fraudulent Form I-551 presented by Source #3 to gain employment at Agriprocessors.
  26. In addition to the Form I-9, ICE Special Agents received from Agriprocessors a letter dated May 4, 2007, written in Spanish and English and addressed to Source #3 from the Agriprocessors Human Resources Manager. The letter reflected that the SSA had corresponded with Agriprocessors and said that the social security number presented to Agriprocessors by Source #3 to gain employment did not match the name of the person to whom the number had actually been issued as reflected in the SSA database. In that letter the Human Resources Manager requested Source #3 provide proof the employee was resolving the discrepancy with SSA and directed, if this information was not provided, a new Form I-9 must be completed with Agriprocessors by July 9, 2007.
  27. An ICE indices check conducted by ICE Special Agents on Source #3 was negative, noting that lawful status in the United States had not been previously granted to the subject. A NCIC search of Source #3's fingerprints did not reveal any criminal history.

#### Source #4

28. Source #4, after being advised of *Miranda* rights in the Spanish language and waiving those rights, stated Source #4's employment at Agriprocessors began in 2005. During the employment application process, Source #4 presented a fraudulent Form I-551 (bearing number XX-XXX-406) and a fraudulent social security card (bearing number XXX-

- XX-7893) to Agriprocessors. Source #4 stated his/her employment was terminated in 2007.
29. Pursuant to an inquiry by an ICE Special Agent, Agriprocessors provided a Form I-9 apparently filled out and signed by Source #4. The Form I-9 was not certified by Agriprocessors, as required by law; however handwritten in the Business or Organization Name and Address block was "Agriprocessors, Inc. 220 West Street, PO Box 920, Postville, Iowa 52162." The Form I-9 was accompanied by a photocopy of the fraudulent Form I-551 presented by Source #4 to gain employment at Agriprocessors.
  30. An ICE indices check conducted by ICE Special Agents on Source #4 was negative, noting that lawful status in the United States had not been previously granted to the subject. A NCIC search of Source #4's fingerprints revealed a prior misdemeanor Operating While Intoxicated charge.

Source #5

31. On or about December 6, 2006, ICE Special Agents processed a request from the Decorah, Iowa, Police Department regarding a subject later identified as Source #5 who was being held on State of Iowa criminal charges. Source #5 was determined to be a foreign national unlawfully present in the United States. An interview of Source #5 by ICE Special Agents revealed Source #5 had been employed at Agriprocessors in 2006. Source #5 said the Source presented a fraudulent I-551 bearing a fictitious name to gain employment at Agriprocessors.
32. Pursuant to an inquiry by ICE Special Agents, Agriprocessors provided a Form I-9 bearing the fictitious name and signature of Source #5. The Form I-9 was accompanied by a photocopy of the I-551 presented by Source #5, containing the fictitious name, to gain employment at Agriprocessors. ICE Special Agents also recovered from Source #5 at the time of his/her remand from the custody of the Winnesheik County Sheriff's Office, an Agriprocessors payroll check, in the fictitious name that

was in Source #5's possession at the time of his/her arrest. Also recovered from Source #5 was an Agriprocessors-issued identification/proximity card in the fictitious name used by Source #5.

33. ICE indices checks conducted by ICE Special Agents on Source #5 were negative, noting that lawful status in the United States had not been previously granted to the subject. A NCIC search of Source #5's fingerprints revealed a previous Immigration Voluntary Departure and a misdemeanor charge from Nebraska for consumption of alcohol on public property.

#### Source #6

34. On September 20, 2007, an ICE Detention & Removal Operations (hereinafter "DRO") Immigration Enforcement Agent (hereinafter "IEA") processed Source #6, an illegal alien from Mexico, for immigration removal proceedings after Source #6 was remanded to ICE custody from the Fayette County Sheriff's after disposition of a misdemeanor Operating While Intoxicated charge. Source #6 stated the Source began employment with Agriprocessors in 2004 on one of the farms as an undocumented worker. The employment lasted two years. Source #6 was subsequently interviewed by an ICE Special Agent. Source #6 stated the Source presented a fraudulent I-551 and a fraudulent social security card for employment, and a form I-9 was completed at Agriprocessors. No I-9 has been requested of Agriprocessors.

#### Source #7

35. On November 8, 2007, ICE Special Agents met with a confidential source that had been previously used as a source of information by ICE (hereinafter "Source #7"). Source #7 is currently authorized to work in the United States based on an employment authorization document issued by DHS/CIS. Source #7 has proven to be credible and has assisted in other cases. Source #7's information and assistance in these prior cases led to the conviction of two people on identity and document fraud charges. Source #7 has been provided monetary assistance by ICE Office of

Investigations for new cell phone service obtained as a result of this case, for living expenses, rent, transportation costs, and to compensate for loss of wages due to the wage disparity from Source #7's prior job, while providing information in this investigation. A search of NCIC criminal history information for Source #7 was negative.

36. On November 8, 2007, ICE Special Agents wired Source #7 with an electronic audio monitoring device. At the direction of ICE Special Agents, Source #7 went to Agriprocessors where Source #7 asked for, and received, an employment application. Source #7 spoke to a female employee who apparently works in the Human Resources Department and speaks Spanish. Source #7 told the female the Source was not in possession of a social security number to use. The female Agriprocessors employee stated she could not hire Source #7 without one. Source #7 departed the building and, on a street adjacent to the previously departed building, Source #7 spoke with a person identified as an Agriprocessors employee about getting a job at the company. The apparent Agriprocessors employee stated that there were other employees in the turkey processing area of the plant that are working without papers. Source #7 understood this to mean illegal aliens were working even though they did not have Social Security numbers. Source #7 asked if the employee knew where a person could purchase fraudulent papers in the local area. The employee stated that there was someone in the area, but the employee didn't have a contact name. The employee stated, however, that there was a guy (hereafter referenced to as "C") in the turkey processing area who allowed employees under his direction to work without papers, implying he was a supervisor. The employee provided Source #7 her/his telephone number.
37. On November 9, 2007, ICE Special Agents directed Source #7 to attempt to telephone the Agriprocessors employee that the Source spoke to the previous day, with negative results. ICE Special Agents wired an electronic audio monitoring device to Source #7 and directed Source #7 to

attempt to locate the Agriprocessors employee from the previous day, but Source #7 was unsuccessful. Source #7 talked to a different Hispanic male near Agriprocessors who identified himself as a Guatemalan national. The Hispanic male stated that the Agriprocessors business office would not hire without having "papers". However, the Hispanic male stated there was a supervisor in the turkey processing area who would employ the Source without papers and pay cash. Source #7 departed and went to a different area in Postville, Iowa. Source #7 spoke to two other Hispanic males who gave the same information about gaining employment "without papers" in the turkey processing area and one offered to show Source #7 where the supervisor lived. The unidentified Hispanic male led Source #7 to a home in Postville where they went to the door and made contact with the purported supervisor's spouse, who stated that the supervisor was not at home and provided a telephone number to Source #7 to call. The supervisor's spouse identified her husband by the name of "C." Source #7 left the home with the Hispanic male who stated the named supervisor paid employees separately in cash. Source #7 attempted to make a recorded telephone call to the telephone number provided, but was unsuccessful. Source #7 attempted to contact the supervisor once again at his home, but was unsuccessful. Another attempt to make a recorded telephone call to the supervisor was finally successful. Source #7 told the supervisor that Source #7 was looking for a job in Postville, whereupon the supervisor stated he could not talk and could meet tomorrow. The call was terminated.

38. On November 10, 2007, ICE Special Agents directed Source #7 to make a telephone call to the supervisor, "C." The call was not recorded. During the call, the supervisor told Source #7 to go to Agriprocessors and fill out an application.
39. On November 14, 2007, ICE Special Agents wired Source #7 with an electronic audio monitoring device. At the direction of ICE Special Agents, Source #7 went to "C's" house where Source #7 met with him and

Source #7 reminded her/him that they had spoken on the telephone previously. Source #7 inquired about employment at Agriprocessors without having any papers. "C," the supervisor, initially stated that Source #7 should fix Source #7's social security number to be able to work. Source #7 stated that, based on previous conversations with other employees, Source #7 understood the supervisor would hire Source #7 without papers and pay cash. "C" stated he would speak to the Human Resources Manager at the plant to inquire about employment and call Source #7. Source #7 later positively identified "C" through a copy of "C's" driver's license photo, and your affiant has confirmed that "C" is, in fact, a supervisor employed at Agriprocessors. Source #7 left and went to other locations in Postville, Iowa where Source #7 heard from other individuals about getting hired by the supervisor and working for cash. Source #7 learned the Agriprocessors employees working for the supervisor wore orange hard hats and, apparently, the employees that provided proof of lawful employment wore green hats. Later that afternoon, Source #7 spoke to a neighbor at Source #7's apartment building about the attempts to gain employment with the supervisor. The neighbor stated the supervisor normally requires a referral from someone he knew and the neighbor stated he may know someone who would refer Source #7.

40. On November 16, 2007, ICE Special Agents wired Source #7 with an audio recording device. Source #7 made contact with numerous residents of Postville. Source #7 was informed again by these contacts that "C," the supervisor, hired employees with no employment documents and they were paid cash. Source #7 also heard that there is an Agriprocessors employee that transported other employees to Minnesota to obtain state identification documents. Source #7 met with an employee of Agriprocessors who stated that Source #7 could obtain a job as a forklift operator at the plant, but Source #7 would need employment documents.
41. On November 17, 2007, Source #7, using an audio recording device provided by ICE Special Agents, engaged other Postville, Iowa residents

- in conversation. They stated they did not believe the supervisor was currently hiring. However, they stated there may be another Agriprocessors manager who was hiring employees without employment documents and paying cash.
42. On December 5, 2007, ICE Special Agents wired Source #7 with an audio monitoring device. ICE also provided Source #7 with a counterfeit social security card and Form I-551, containing unassigned numbers, to be used in an attempt to gain employment. Source #7 entered the Agriprocessors Human Resources Department and was told by an employee to take an application home and return with it the following Tuesday.
  43. On December 11, 2007, ICE Special Agents wired Source #7 with an audio monitoring device. ICE Special Agents provided Source #7 with a counterfeit social security card and Form I-551, containing a fictitious name and unassigned numbers, to be used in an attempt to gain employment. Source #7 went to the Agriprocessors Human Resources office, where Source #7 provided a female Human Resources employee with the completed application and with the documents provided by ICE Special Agents. The female employee returned with the Source #7's documents and stated that they didn't match (meaning the name and numbers didn't match). The female employee also stated this to at least one of the other approximately 10 applicants in the waiting room. Source #7 had a conversation with the other rejected applicant, and the applicant provided Source #7 a telephone number where Source #7 could potentially obtain good documents.
  44. On December 13, 2007, Source #7 told ICE Special Agents that Source #7 called the telephone number provided by the other rejected applicant from Agriprocessors and a Hispanic-sounding male answered. Source #7 inquired about obtaining identity documents to gain employment at Agriprocessors. The Hispanic male stated that he was in California; however, he could send identification documents via the mail. The Hispanic male said he had sent documents previously to residents of



Postville, but they were not successful in obtaining employment based on how strict Agriprocessors had become in their hiring process. Source #7 asked the Hispanic male if he could obtain any good documents, like a birth certificate, and the Hispanic male replied he did not have any at that time. Source #7 was directed by ICE Special Agents to not call the Hispanic male again but to wait for a return call. According to the information received by ICE Special Agents from Source #7, this return call did not occur.

45. On January 8, 2008, ICE Special Agents wired Source #7 with an electronic audio monitoring device. Source #7 made contact with the Agriprocessors Human Resources office to present a valid social security card provided by ICE Special Agents that contained information relating to a legitimate number for a presumed United States citizen. The social security number Source #7 provided on this occasion was different from the social security number he had presented to Agriprocessors the prior week, though s/he used the same name as before. Source #7 did not witness the use of computers by Agriprocessors Human Resources staff; however, the Source stated the Human Resources Manager would periodically return to her office during the application process. Source #7 completed the initial application for the hiring process and was dismissed for lunch to return later that day. Source #7 told ICE Special Agents there were approximately 30 applicants for employment at the Human Resources area. The Human Resources manager informed approximately 12 of those applicants that they could not be hired due to their documents not having legitimate identification numbers. After a lunch period, Source #7 returned to the Agriprocessors Human Resources department, completed the Form I-9 as well as some type of insurance paperwork, and attended a safety briefing. This training and completion of paperwork were done in the presence of the Human Resources Manager. Source #7 stated s/he was hired at \$7.25 an hour and was assigned the duty of hanging cattle in the plant. Source #7 was informed

to report back the next day to complete orientation, and the day after that Source #7 would begin employment. Source #7 stated all of the applicants present appeared to be Hispanic and Source #7 believed they were all illegally present in the United States, except one female who claimed to Source #7 to be a United States citizen. Two of the applicants claimed to have just crossed the United States border. Source #7 stated the Human Resources Manager appeared to be aware that some of the employment applicants may be illegal aliens based on her statements, directions, and the assistance she provided. Source #7 gave an example of the Human Resources Manager informing the applicants that provided her with I-551's for employment that they are supposed to be "legal" so they needed to check the permanent resident alien box on the Form I-9. The Agriprocessors Human Resources employee stated (in Spanish) to Source #7 and the fellow applicants for employment, while assisting them in the completion of Form I-9, that:

"Those that are American citizens are going to put an X in the first square. Those who are permanent residents are going to put an X on the second square. Those who are only foreign (unintelligible portion of tape). I believe the majority are permanent residents but those who have a driver's licen . . . Those who have shown a driver's license, I don't know what they are."

The applicants laughed. The Agriprocessors Human Resources employee continued and spoke to Source #7 and stated "Okay, Your . . . Mark the first square. U, I don't know what". Source #7 stated "Citizen." The Agriprocessors Human Resources employee continued "Mark the first square. Okay?" Apparently the applicants continued to find humor in this situation and they and the Agriprocessors Human Resources employee continued to laugh. The Agriprocessors Human Resources employee continued to assist the applicants with ascertaining their immigration status in the United States and then continued helping them complete the I-9 and assisting individuals that produced immigration documents as to what an immigration 'A' number is and where to place it. The

- Agriprocessors Human Resources employee continued to explain what type of immigration documents should constitute a check mark in which box. Additionally the Agriprocessors Human Resources employee cited that underneath the squares, indicated above, that there was a line for an employee's signature. An Agriprocessors Human Resources employee stated that "your signature should be your first and last names." She assisted all of the applicants with the employment forms and apparently speaks fluent Spanish. She provided the safety briefing in Spanish.
46. On January 9, 2008, ICE Special Agents wired Source #7 with an audio recording device. Source #7 made contact with the Agriprocessors Human Resources department to continue the orientation process. Source #7 stated that the orientation consisted of more safety briefings conducted by a female Agriprocessors employee. During the safety briefings, one of the points emphasized was the safe handling of knives at the meat processing plant that are used in the process of butchering the various animals processed at Agriprocessors. Based on the observations of Source #7, a large number of knives are used by employees in the Agriprocessors facility. The Agriprocessors Human Resources employee continued later on in the briefing and stated that employees would be docked two dollars a week from their pay for the use of gowns and glove, of which usage is mandatory. Source #7 was also notified that a proximity card would be issued for entry into Agriprocessors.
47. On January 10, 2008, Source #7 contacted an ICE Special Agent to inform the agent that Source #7 began employment at Agriprocessors and worked 14 hours that day. Source #7 stated an identification/proximity card was issued to enter the plant and to electronically clock the hours worked. Source #7 said a co-worker told her/him that the co-worker did not have good papers and that he does not electronically clock in and out, but instead signs in and out. Source #7 stated that the co-worker may be paid in cash. Source #7 stated that the equipment issued to perform the

work in the hazardous conditions of the plant was substandard and previously used.

48. On January 18, 2008, Source #7 told ICE Special Agents that there appeared to be four to six hundred employees working during the same time frame as Source #7 and approximately one hundred additional employees departing from the midnight shift when Source #7 arrived for work in the morning. Source #7 stated there was at least one other employee who was earning less than Source #7 was earning and at least one other employee that Source #7 believed to be illegal and received a different colored check than Source #7. Source #7 stated the identification/proximity card issued to Source #7 on the first day of employment was used each work day initially at a security gate near the human resources building. ICE Special Agents observed that Source #7's identification card appeared to have a proximity device attached to it to electronically access the Agriprocessors complex. Source #7 said that once an employee was in the main meat processing area at Agriprocessors, the identification card was again used for further access. In the alternative, employees could manually enter their employee number that is also contained on the card. Source #7 stated there was a light sensor machine adjacent to the location where the identification card is used and that the subject's hand was placed on this device and was scanned. Even when using the light sensor machine, an employee must still use a swipe card or enter their ID number. Source #7 stated there are many Rabbis employed inside the plant and some speak Spanish. Source #7 also observed that the laborers, including Source #7, wore white hats; the cleaning/trash crew wore brown hats; the inspectors wore red hats; the team leaders wore green hats; and the supervisors wore yellow hats and carried radios.
49. On January 25, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked and included overtime pay. The pay stub appeared to be generated by computer and contained

Source #7's name and the last four digits of the social security number Source #7 provided to Agriprocessors. Source #7 stated there was an employee that had been working for the past two months who stated he was from Guatemala and received a different colored check than Source #7. The Guatemalan's check did not have "Agriprocessors" written in the corner (as did the checks Source #7 received). Source #7 also described an oral altercation by a Rabbi who was calling employees derogatory names and throwing meat at employees. Source #7 said the employees in the chicken processing area were suspected of being paid cash and apparently wore blue hats. Source #7 also said the rent for the Source's apartment in Postville had been increased and, based on what other Hispanics told him, it was a common practice for the landlords who rented to tenants in that area to frequently increase rents.

50. On February 1, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked and included overtime pay. Source #7 said there was a co-worker that Source #7 met whose paycheck was a different color and who did not have an Agriprocessors identification card. The co-worker asked one of the Rabbis why he didn't have an employee card to swipe through the time clock. The Rabbi told the co-worker the worker would have to have shown valid documents to obtain one. According to the co-worker, he brought a green card the next day and the Rabbi somehow checked it and said it wasn't valid. The co-worker was allowed to continue in his previous employment capacity. Source #7 stated another Rabbi asked Source #7 if the documents Source #7 presented were valid. The Rabbi continued with the conversation and cited the state of origin for the social security card Source #7 provided for employment (without Source #7 previously indicating where it was issued). The Rabbi asked Source #7 where s/he was born. Source #7 stated s/he was born in the State indicated on her/his Social Security card, but explained s/he traveled back to Mexico at a young age. The Rabbi said that was good because the rest of the

workers did not have any papers. Source #7 stated there was another increase in rent at the Source's apartment.

51. On February 15, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked that included overtime pay. Source #7 said a group of between 50 and 100 employees, that Source #7 believed to be illegal, had never presented documents to gain employment at Agriprocessors. They received a different colored pay check than did Source #7. According to what Source #7 heard from other employees, these employees were supposedly told by Agriprocessors management to provide identification documents in the next thirty days or they would be terminated.
52. On February 22, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked that included overtime pay. Source #7 said one of the floor supervisors, identified by Source #7 as a Hasidic Jew, duct-taped the eyes of an employee that Source #7 believed to be an undocumented Guatemalan. The floor supervisor then took one of the meat hooks and hit the Guatemalan with it, apparently not causing serious injuries. Source #7 asked the Guatemalan to report this incident to the front office, but the Guatemalan stated that it would not do any good and could jeopardize his job. Another incident occurred where a different floor supervisor, identified by Source #7 as a Hasidic Jew, pushed Source #7 because the supervisor did not like the way Source #7 was moving meat. Source #7 said the persons Source #7 believes to be undocumented Guatemalans were experiencing difficulties getting paid their different colored checks and they were asked to return at 4:00 P.M. on Friday to receive them after being dismissed from work for the day at 1:00 P.M.
53. On February 29, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked that included overtime pay. Source #7 said, from what other workers are telling him/her, the undocumented Guatemalans that were paid via a different colored check

- have begun to obtain fraudulent documents to present to Agriprocessors. Source #7 said there was a person believed to be a Mexican national working at Agriprocessors who was providing fraudulent documents through a vendor in Postville. Source #7 was not able to provide further details.
54. On March 7, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked that included overtime pay. Source #7 said s/he saw some of the checks the undocumented Guatemalans were provided by Agriprocessors and they were green. Source #7 stated the neighbor of Source #7 handles trash at Agriprocessors and wore a white hard hat.
55. On March 15, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked that included overtime pay. Source #7 said a former co-worker told Source #7 that a Postville resident, possibly a local government official, was in charge of the green checks issued to the undocumented workers at Agriprocessors. Source #7 said the resident was known as "Mr. Boss" and no other identifiers were known to Source #7. Source #7 said upper-level managers wore orange hats, the Rabbis and chicken workers wore blue hats, the group supervisors wore yellow hats, the foremen wore green hats, the inspectors wore red hats, and the remaining floor workers wore white hats.
56. On March 28, 2008, Source #7 provided ICE Special Agents with the prior week's pay stub that reflected hours worked and included overtime pay. Source #7 restated that, upon entry to Agriprocessors' main meat processing area where Source #7 was employed, an employee placed his or her hand on a scanner that has four lights and two posts with which to align the hand. The employee identification number is input into a machine that allows a green light to come on apparently indicating the name and number match. Source #7 restated employees hired without papers did not use this scanner. Source #7 stated a Guatemalan employed on the same line as Source #7 has received fraudulent

documents and submitted them to the Agriprocessors Human Resources office. Source #7 stated Agriprocessors was continuing to hire new employees as well. Source #7 related a conversation Source #7 had with another employee; that employee stated he had a conversation with a supervisor and asked the supervisor where they should go if Immigration came. The supervisor stated Immigration wouldn't be coming because Agriprocessors takes taxes out of the employees' checks. Additionally, Source #7 stated there were mostly Mexican and Guatemalan nationals, as well as some El Salvadorians, employed at Agriprocessors.

57. On April 04, 2008, Source #7 stated Agriprocessors continued to hire new employees and had recently terminated some females as well as other employees Source #7 believed to be juveniles.
58. On April 11, 2008, Source #7 stated his/her shift was from 2:00 a.m. until 2:00 p.m. Source #7 provided ICE Special Agents with the prior two weeks' pay stubs that reflected hours worked and overtime pay. Source #7 stated Agriprocessors did not hire last week and had terminated six young male employees for reasons unknown to Source #7. Source #7 stated there was talk among the employees of Immigration coming to raid the plant; however, Source #7 did not feel it was resulting in a wide spread fear. Source #7 also said one of the Rabbis previously involved in demonstrating violent behavior with employees was again involved in an oral altercation in which the Rabbi called an employee "stupid." Source #7 said s/he had heard from other employees that the turkey processing area of Agriprocessors was in operation on the south side of the railroad tracks from the main meat processing plant where Source #7 was employed. ICE Special Agents provided Source #7 with an overhead picture of the Agriprocessors complex where Source #7 pointed out a series of buildings adjacent to and to the south of the railroad tracks area where the turkey processing took place.
59. On April 18, 2008, Source # 7 provided ICE Special Agents the prior week's pay stub that reflected hours worked and overtime pay.



Additionally, Source # 7 stated that two individuals with beards, and identified as brothers as well as the owners by a co-worker, visited the Agriprocessors meat processing line. Source # 7 also stated that, a couple of weeks ago, the last four undocumented Guatemalans were fired by Agriprocessors. The Source stated the supervisor identified as "C" may be working nights in a different part of the plant.

60. On April 25, 2008, Source # 7 provided ICE Special Agents the prior week's pay stub reflecting hours worked and overtime pay. ICE Special Agents showed Source # 7 a photo retrieved from the Internet (<http://recognitionsystems.ingersollrand.com>) of the Ingersoll Rand (hereinafter "IR") Hand Punch Biometric Time and Attendance Terminal Model 4000. The Source confirmed that the Hand Punch terminal on the photograph appeared to match the system used by Agriprocessors to record time and attendance. Source # 7 also told ICE Special Agents that s/he spoke to a neighbor who told the Source that s/he had heard that approximately 60 employees who work for "C" were going to be fired. The Source # 7 did not receive any further intelligence relating to this information. The neighbor also told the Source that the neighbor's brother was traveling to Postville, Iowa from Guatemala in an attempt to gain employment at Agriprocessors. Source # 7 did not gain any further intelligence relating to this information. Source # 7 also told ICE Special Agents that "Mr. Boss" is the owner of an apartment complex in Postville, Iowa.
61. Previous intelligence received by ICE Special Agents has revealed that a man by the name of R. W. works for the elementary school in Postville, Iowa and recently sold an apartment complex to Agriprocessors. R. W. is also known to carry an envelope of cash with him/her at school to pay employees of Agriprocessors. R. W. is also listed as the point of contact on letters sent by Agriprocessors to employees noting that they have been identified as having misunderstandings regarding the employee's social security number.

Sources 8, 9, & 10

62. On or about May 1, 2006, ICE Special Agents assisted the Federal Bureau of Investigation with identifying individuals involved with the production of a potential explosive device. The device was found in a vehicle registered to a resident of Postville. Further investigation showed the likely source for the materials used to construct this device was the Agriprocessors mechanical shop. When officers attempted to interview three suspects at Agriprocessors concerning their knowledge of the explosive device found in the car, and the owner and operator of the car, an Agriprocessors supervisor ("C") escorted the employees to the office for the interview and gave one employee a fictional name to provide to officers regarding the person who sold them the car. On May 4, 2006, pursuant to this investigation, ICE Special Agents arrested three subjects, identified here as Source #8, Source #9, and Source #10.

Source #8

63. Source #8, in a consensual interview conducted in the Spanish language prior to arrest by ICE on May 4, 2006, was shown his/her employment application for Source # 8 on file with Agriprocessors. Source #8 began employment in 2004. Source #8's application contained the social security number XXX-XX-9281. A photocopy of the fraudulent Form I-551 (bearing number XX-XXX-871) that Source #8 presented in conjunction with the completion of the I-9 was shown to Source #8. Source #8 admitted the document was fraudulent and purchased through an illegitimate source, in conjunction with the social security card, and that both were used to gain employment at Agriprocessors.
64. An ICE indices check conducted by ICE Special Agents on Source #8 was negative, noting that lawful status in the United States had not been previously granted to the subject. A NCIC search of Source #8's fingerprints did not reveal any prior criminal history.
65. During a search of Source #8's residence in Postville on May 4, 2006, agents recovered a SSA Request for Employee Information letter- OMB

Form 0960-0508 (commonly referred to as SSA Decentralized Correspondence or "DECOR Letter"), dated April 22, 2006, and addressed to Source #8. The DECOR letter pertained to the tax year 2005 earnings Source #8 received from Agriprocessors. The DECOR letter is a document sent by the SSA to employees when the SSA has determined the Social Security number utilized by an employee does not match SSA records. Thus, the DECOR letter serves as a notice to employees of potential non-matching social security information.

#### Source #9

66. Source #9, in a consensual interview conducted in the Spanish language prior to arrest by ICE on May 4, 2006, was shown his/her employment application on file with Agriprocessors. Source #9 began employment in 2002. Source #9's application contained the social security number XXX-XX-8316. A photocopy of the fraudulent Form I-551 (bearing number XX-XXX-153) that Source #9 presented in conjunction with the completion of the I-9 was shown to Source #9. Source #9 admitted it was a fraudulent document and was purchased through an illegitimate source, in conjunction with the social security card, and that both were used to gain employment at Agriprocessors.
67. An ICE indices check conducted by ICE Special Agents on Source #9 was negative, noting that lawful status in the United States had not been previously granted to the subject. A NCIC search of Source #9's fingerprints did not reveal any prior criminal history.

#### Source #10

68. On May 4, 2006, an ICE Special Agent, with FBI Special Agents present, conducted a consensual interview in the Spanish language of Source #10. ICE Special Agents subsequently obtained Source #10's employment application file from Agriprocessors, along with his/her Form I-9. Employment documents showed Source #10 began employment in 2005. Source #10's application contained the social security number XXX-XX-8756. A fraudulent Form I-551 (bearing number XX-XXX-388) and social

security card (bearing number XXX-XX-8756), that Source #10 provided when filling out the I-9 were found while the search of the home where Source #10 resided was conducted. The Form I-9 was not certified by Agriprocessors, as required by law; however, handwritten in the Business or Organization Name and Address block was "Agriprocessors, Inc., 220 West St., PO Box 920, Postville, Iowa 52162." Source #10 admitted both of these documents were fraudulent and purchased through an illegitimate source.

69. An ICE indices check conducted by ICE Special Agents on Source #10 was negative, noting that lawful status in the United States had not been previously granted to the subject. A NCIC search of Source #10's fingerprints did not reveal any prior criminal history.

#### Source #11

70. On April 14, 2008, ICE agents spoke to Source #11 who had come to ICE custody from the Allamakee County Sheriff's Department after disposition of a misdemeanor charge. Source #11 said the Source gained employment at Agriprocessors in 2007, without presenting employment documents or filling out any employment forms. Instead, Source #11 said a friend working at Agriprocessors asked an unknown supervisor at Agriprocessors if Source #11 could be employed. That same day, Source #11 began working at Agriprocessors. Source #11 stated that, when the first paycheck was received, it had another unknown person's name on it. This check was then taken to another portion of the plant where it was cashed. A work identification card with a proximity sensor attached was issued to Source #11 in the same last name under which s/he was paid, but with a different first name.
71. On April 17, 2008, an ICE Special Agent conducted a follow-up interview of Source #11. Source #11 stated the Source worked in the north end of the large main meat processing plant where Agriprocessors' employees processed chickens. ICE Special Agents showed Source #11 an aerial map of the Agriprocessors' complex, which included buildings located

generally south of railroad tracks which run through a portion of the Agriprocessors facility. The area south of the railroad tracks is believed to be a portion of the former Iowa Turkey Products, Inc. Source #11 said that area is where other Agriprocessors employees process turkeys. Source #11 said the Source knows this because this is where Source #11 had friends that worked. Source #11 stated both areas had mostly Hispanic workers from Mexico, Guatemala, and Honduras and the undocumented workers were employed alongside the presumably documented employees. The difference, Source #11 stated, was the undocumented workers were paid \$5.00 an hour, and after three or four months of working they started making \$6.00. Source #11 stated the undocumented workers were paid in cash and emphasized this point by pretending to count out money by hand. However, Source #11 stated the employees that had been seen clocking in and out are all using an electronic swipe card used to enter the building and track their time. This process did not produce a paper punch card, but rather produced an electronic record of an employee's hours. Based on the description of the system provided by the sources, it appears the swipe cards generate an electronic record, through a centralized computer database located on the Agriprocessors site, from which payroll is calculated.

72. On January 31, 2008, ICE DRO IEA processed Source #12, an illegal alien from Mexico, for immigration removal proceedings after Source #12 was remanded from the Allamakee County Sheriff's Office after disposition of State criminal charges. The IEA interviewed Source #12 and, based on what Source #12 said or how the agent interpreted what Source #12 said, the agent understood that Source #12 worked for "Con Agri Processors" as an undocumented worker from approximately 2002 to the present. Source #12 was subsequently interviewed by ICE Special Agents. During that interview, Source #12 said s/he was employed at Agriprocessors for the past five or six years. Source #12 said s/he did not initially complete a form I-9 when s/he began working at Agriprocessors.

Source #12 said s/he was paid cash for the first year of employment and subsequently filled out a form I-9 using a Mexican Consular Identification card. Source #12 said s/he had been in contact with a manager from Agriprocessors while incarcerated; the manager stated Source #12 could come back to work at Agriprocessors after s/he was released.

73. Pursuant to an inquiry by ICE Special Agents, Agriprocessors provided the Form I-9 filled out and signed by Source #12 on August 19, 2003. The social security number annotated on the form I-9 was XXX-XX-0207. The form I-9 was certified by an Agriprocessors Human Resources Assistant and the Business or Organization Name and Address block was filled in with "Agriprocessors, Inc. 220 West St., PO Box 920, Postville, Iowa 52162." The Form I-9 was accompanied by photocopies of the front and back of a fraudulent form I-551 (number XX-XXX-055) presented by Source #12 to gain employment at Agriprocessors.
74. A subsequent post-*Miranda* interview of Source #12 was conducted by ICE Special Agents. The Agents showed Source #12 his/her form I-9 and attached copies of the form I-551. Source #12 said s/he had procured a fraudulent I-551 and social security card through an illegitimate source and subsequently presented them for employment at Agriprocessors. According to Source #12, the Source completed the form I-9 and presented the form I-551 and social security card to Agriprocessors after Source #12 had worked at Agriprocessors for one year and after Source #12 received a letter from Agriprocessors requesting proof of eligibility for employment.
75. An ICE indices check conducted by the IEA on Source #12 was negative, noting that lawful status in the United States had not been previously granted to the Source. A NCIC search of Source #12's fingerprints revealed two prior Operating While Intoxicated misdemeanor charges and a Sexual Abuse 2<sup>nd</sup>, the latter of which appeared to be dismissed.

**OTHER CRIMINAL PROSECUTIONS OF ILLEGAL ALIENS WORKING AT AGRIPROCESSORS**

76. Between approximately 2004 to 2007, law enforcement authorities in Iowa encountered at least 9 individuals in connection with the investigation of other criminal conduct by those people, including fighting, criminal mischief, drug activity, driving offenses and other matters. During subsequent investigations by ICE Special Agents, these individuals were found to be in the United States unlawfully, and to have obtained false and fraudulent identification documents in order to secure employment. Through the use of these false documents, these nine people worked at Agriprocessors from approximately 2004 to 2006. Each of these nine people were subsequently convicted of violations of federal criminal law.

**NOTICES SENT TO AGRIPROCESSORS OF NON-MATCHING SOCIAL SECURITY NUMBERS**

77. Information was previously obtained by ICE Special Agents from law enforcement sources of numerous partial SSA Employer Correction Request for Educational Correspondence (hereinafter "EDCOR") letters addressed to Agriprocessors. These partial EDCOR letters list the discrepancies between employee names and the social security numbers reported by the employer on Wage and Tax statements (Forms W-2) for a specific tax year. This discrepancy normally means that the social security number and name do not match what is contained in the SSA's official records. It could also mean the number reported by Agriprocessors has not yet been issued to any person. These EDCOR letters revealed that Agriprocessors was notified via five separate letters of 500 social security number discrepancies, one letter of 461 social security number discrepancies, one letter of 68 social security number discrepancies, one letter of 52 social security number discrepancies, one letter of 42 social security number discrepancies, one letter of 37 social security number discrepancies, one letter of 24 social security number discrepancies, and one letter of 22 social security number discrepancies for the tax years as follows:

- a. An EDCOR letter dated May 05, 2006, from SSA to Agriprocessors, stated there were at least 500 social security number discrepancies for employee records relating to the tax year 2005.
- b. An EDCOR letter dated April 21, 2006, from SSA to Agriprocessors, stated there were 68 social security number discrepancies for employee records relating to tax year 2005.
- c. An EDCOR letter dated March 24, 2006, from SSA to Agriprocessors, stated there were 52 social security number discrepancies for employee records relating to tax year 2004.
- d. An EDCOR letter dated March 24, 2006, from SSA to Agriprocessors, stated there were 42 social security number discrepancies for employee records relating to tax year 2003.
- e. An EDCOR letter dated March 24, 2006, from SSA to Agriprocessors, stated there were 37 social security number discrepancies for employee records relating to tax year 2002.
- f. An EDCOR letter dated March 24, 2006, from SSA to Agriprocessors, stated there were 24 social security number discrepancies for employee records relating to tax year 2000.
- g. An EDCOR letter dated May 19, 2005, from SSA to Agriprocessors, stated there were at least 500 social security number discrepancies for employee records relating to tax year 2004.
- h. An EDCOR letter dated May 19, 2005, from SSA to Agriprocessors, stated there were at least 500 social security number discrepancies for employee records relating to tax year 2003.
- i. An EDCOR letter dated May 19, 2005, from SSA to Agriprocessors, stated there were at least 500 social security number discrepancies for employee records relating to tax year 2002.



- j. An EDCOR letter dated May 19, 2005, from SSA to Agriprocessors, stated there were at least 500 social security number discrepancies for employee records relating to tax year 2001.
  - k. An EDCOR letter dated May 19, 2005, from SSA to Agriprocessors, stated there were 461 social security number discrepancies for employee records relating to tax year 2000.
  - l. An EDCOR letter dated May 09, 2002, from SSA to Agriprocessors, stated there were 22 social security number discrepancies for employee records relating to tax year 2001.
78. On February 28, 2008, ICE Special Agents received from the SSA the EDCOR letters sent to Agriprocessors during 2006. The information returned consisted of one EDCOR letter sent from SSA to Agriprocessors on April 21, 2006, and one EDCOR letter sent on May 05, 2006.
- a. The copy of the EDCOR letter sent on April 21, 2006, to Agriprocessors reflected that SSA informed Agriprocessors that 68 of the social security numbers reported by the company for tax year 2005 did not agree with SSA records.
  - b. The copy of the EDCOR letter sent on May 05, 2006, to Agriprocessors reflected that the SSA informed Agriprocessors that at least 500 of the social security numbers reported by the company for tax year 2005 did not agree with SSA records.

The SSA stated there were no EDCOR letters sent to Agriprocessors during calendar year 2007. The SSA confirmed in its response that it does not maintain copies of any Decentralized Correspondence (“DECOR”) letters notifying individual employees that the social security number used by that employee during a specific time period does not agree with SSA records. Unlike EDCOR letters, which are sent to employers, DECOR letters are sent to employees to let the employee know the reported name and social security numbers do not match SSA

records. DECOR letters may be sent to an employer, however, when an employee's address is incomplete or incorrect.

79. A search of the SSA public website for information on EDCOR letters revealed that employers are only sent an EDCOR letter for the first 500 employees found with social security number discrepancies, based on Internal Revenue Service (hereinafter "IRS") W-2 information submitted by that employer, and it is incumbent on the employer to obtain additional no-match information on any additional discrepancies above the 500 already received.

#### **ICE ANALYSIS OF 2007 NO-MATCH INFORMATION**

80. On or about October 12, 2007, ICE Special Agents inquired of CIS whether Agriprocessors was a registered participant in the Enumeration Verification System ("EVS"). EVS is a CIS-sponsored employer program that allows a company to submit an employee's name and social security number to the SSA for verification. The SSA then verifies whether the employee's name matches the name to which the social security number was assigned, and conveys the information to the company. CIS reported that Agriprocessors is not a participant in EVS. On or about April 22, 2008, ICE Special Agents again checked with CIS to determine if Agriprocessors had, since October 2007, registered to participate in EVS, and determined that it had not.
81. In February 2008, ICE Special Agents obtained "no match" information from the SSA for employees at Agriprocessors during the last two quarters of 2007 and analyzed that information. On February 20, 2008, ICE agents received social security "no match" information from the SSA for 833 Agriprocessors employees suspected of using invalid social security numbers or social security numbers belonging to other real people. These 833 employees were all reported as having earned wages while working at Agriprocessors during the third quarter of 2007. All 833 employees were found to have either used invalid social security numbers or social security numbers assigned to names of other people.

82. On February 28, 2008, ICE agents received additional social security “no match” information from the SSA for an additional 22 Agriprocessors employees suspected of using invalid social security numbers or social security numbers belonging to other real people. These 22 employees were all reported as having earned wages while working at Agriprocessors during the fourth quarter of 2007. All 22 employees were reported by SSA to either have used invalid social security numbers or social security numbers assigned to names of other people.
83. Based on the “no match” information received from the SSA for social security numbers used by Agriprocessors employees during the third and fourth quarters of 2007, about 737 current Agriprocessors employees are believed to be using a social security number not lawfully issued to that person. Due to the turnover in the Agriprocessors work force, the exact number of employees varies somewhat from quarter to quarter. The 737 fourth-quarter employees include about 147 using social security numbers confirmed by the SSA as being invalid social security numbers (never issued to a person) and about 590 using valid social security numbers, however the numbers did not match the name of the employee reported by Agriprocessors as having used that number during employment.

#### **OTHER EVIDENCE**

84. ICE agents used the Accurint database to further research the validity of the social security numbers used by Agriprocessors employees. Accurint is a web-based application tool available to law enforcement personnel for the purpose of searching for identity information, address location, financial records, property information, business listings, employment records, phone information, and other identifying information. Accurint uses a proprietary data-linking technology to gather the search results via more than 100,000 different public records and non-public information sources to aid in fraud detection and identity solutions. This includes such sources as Department of Motor Vehicles, County Assessor’s Office, and private credit reporting entities. For example, if a social security number is

placed in the appropriate block of the search information that is queried for a person, then a name, or a list of names, for the person or persons who have previously used that social security number, and their address and telephone number (if available), will be shown. If there is no name associated with that social security card, or if that person is known to be deceased, then that will be reflected as well.

85. A request from ICE Special Agents to the IWD for an Employer's Contribution and Payroll Report Form 65-5300 (hereinafter "Payroll Report") for the 2<sup>nd</sup> Quarter of 2007 (April, May, and June of 2007) for Agriprocessors revealed there were 1,116 employees reflected as receiving wages for that time period. A search was conducted by ICE agents in the Accurint database for the individual social security numbers listed in the 2<sup>nd</sup> Quarter 2007 Payroll Report. This search revealed that approximately 878 out of 1,116 (78.6%) of the social security numbers input into Accurint either did not appear to be associated with the person assigned to that social security number or the number did not reveal any person associated with that number. This analysis would not account for the possibility that a person may have falsely used the identity of an actual person's name and Social Security Number. In my training and expertise, I know it is not uncommon for aliens to purchase identity documents which include Social Security Numbers that match the name assigned to the number.
86. ICE Special Agents conducted a search by social security number of the Federal Trade Commission's (hereinafter "FTC") Consumer Sentinel Network database that is used for reporting incidents of identity theft. The search revealed that a person who was assigned one of the social security numbers being used by an employee of Agriprocessors has reported his/her identity being stolen.
87. A request from ICE Special Agents to the IWD for a Payroll Report for the 3rd Quarter of 2007 (July, August, and September of 2007) for Agriprocessors revealed there were 1,063 employees reflected as

receiving wages for that time period. A search was conducted by ICE agents in the Accurant database for the 109 new employees whose additional social security numbers were listed in the 3rd Quarter 2007 Payroll Report. This search revealed that approximately 83 out of 109 (76%) of the social security numbers input into Accurant either did not appear to be associated with the person assigned to that social security number or the number did not reveal any person associated with that number. The previous 2<sup>nd</sup> quarter IWD Payroll Report of persons who had left employment showed that, based on the previous Accurant queries, 126 out of 162 (77%) had what appeared to be discrepancies. This left a total of 835 of the current 1063 employees (78.5%) as having discrepancies based on Accurant checks. A search by social security number of the 109 new employees was conducted in the FTC's Consumer Sentinel Network database did not reveal any person reporting his/her identity as being fraudulently used by an unknown party.

88. On February 20, 2008, ICE Special Agents in Cedar Rapids received a copy of the 2007 fourth quarter Payroll Report for Agriprocessors from IWD. The fourth quarter payroll report reflects the names and social security numbers reported by the company for employees who earned wages during the months of October, November, and December of 2007. A review of this report revealed that the company reported paying wages to a total of 968 employees during the fourth quarter of 2007. An analysis of the report by ICE agents showed that 52 new employees at Agriprocessors were paid during the fourth quarter that were not recorded as having been paid on the Payroll Report for the third quarter of 2007. Accurant law enforcement record checks revealed that approximately 22 of the 52 (42%) newly reported social security numbers used by employees of Agriprocessors either related to a real person's name that did not match the name listed on the payroll report, or the Accurant checks did not reveal any information relating to that social security number. Based on a comparison of the third and fourth quarter payroll reports for

Agriprocessors, and the Accurint law enforcement record checks, it appears that approximately 99 of the 148 (67%) employees who were reported on the 2007 third quarter report, but not reflected on the 2007 fourth quarter report, had social security number discrepancies. Thus, according to the reviews of the third and fourth quarter payroll reports combined, approximately 737 of the fourth quarter employees reported by Agriprocessors appear to have social security number discrepancies.

89. A comparison was made of the May 5, 2006, EDCOR letter sent from SSA to Agriprocessors to the combined "no match" information from February 20, 2008, and February 28, 2008, that was received from SSA and derived from both the third and fourth quarter Agriprocessors Payroll Reports. This analysis revealed that approximately 141 of the social security numbers were shown as still being actively used by employees at Agriprocessors.

#### **SUMMARY OF UNLAWFUL EMPLOYMENT INFORMATION**

90. It appears that based on:
- a. The apprehensions in the years of 2004 through 2007 by ICE Special Agents of known criminal offenders, the majority of whom were later prosecuted in federal district court for their use of fraudulent documents, and who have stated that their employer was Agriprocessors;
  - b. The EDCOR correspondence that shows that Agriprocessors has repeatedly been made aware that large numbers of its employees were using social security numbers that have discrepancies for each tax year from 2000 to 2005;
  - c. The indices checks conducted by ICE employees in commercial and government databases, and the IWD Payroll Reports for 2007, reflect discrepancies between the name attributed to each social security number in those databases and the working name and the social security number used for employment at Agriprocessors; and,

- d. Based on information thus far developed in this investigation, it appears, based on 2007 fourth quarter payroll reports, that approximately 76% of the 968 employees of Agriprocessors were using false or fraudulent social security numbers in connection with their employment,

That there is probable cause to believe that (a large percentage approximately 76% as of the 4<sup>th</sup> Quarter 2007) of the total workforce reported to IWD, nearly all of which appear to be Agriprocessors floor workers, used fraudulent documents or documents with social security or other identification numbers that were lawfully issued to others, or not issued at all, and are currently employed unlawfully by Agriprocessors. In addition, there is probable cause to believe there may be some Agriprocessors employees paid in cash who are not reported to IWD, and who are currently employed illegally without valid documents.

#### **HARBORING RELATED TO VEHICLE TITLE AND REGISTRATION FRAUD**

91. The United States Postal Inspection Service ("USPIS"), the Federal Bureau of Investigation ("FBI"), and the Iowa Department of Transportation ("DOT") have investigated possible document fraud involving the titles and registration of vehicles used by employees of Agriprocessors. The following is based on information provided to your affiant by these agencies.
92. In September 2005, the DOT began investigating reports of questionable title transactions between Des Moines and Allamakee Counties. Burlington is the County Seat for Des Moines County and Postville is located in Allamakee County. The suspect applicants showed addresses in Burlington, Iowa, but registration renewals were repeatedly made in Allamakee County.
93. A DOT Investigator who spent time in the Postville area noted a high number of license plates from Des Moines County. From time to time, the Investigator had involvement with vehicles in the Postville area during traffic stops made while working formerly as a Postville Reserve Police

Officer. The DOT Investigator also reviewed vehicle title transactions as a DOT Investigator. The majority of the vehicles showed Des Moines County addresses on the registration and title information despite the vehicles consistently remaining in Postville, even after ownership changed. The Agriprocessors facility contains a parking lot for employees. By driving into Postville and going through the parking lot at Agriprocessors, the DOT Investigator was able to determine that a large number of the vehicles in question appeared to be driven by employees of Agriprocessors and parked in the company parking lot during the employees' shifts.

94. The DOT Investigator was aware that a supervisor at Agriprocessors was connected with the sales of vehicles. On at least one occasion, the supervisor had retrieved or attempted to retrieve vehicles from impoundment at the Postville Police Department on behalf of another Agriprocessors employee. A number of the vehicles appeared to have a link to a car dealership located in Cedar Rapids, Iowa ("Dealership").
95. In October 2005, DOT Investigators audited the Dealership. The managers of the Dealership stated that the Agriprocessors' supervisor ("C") was a personal friend of theirs. They stated they had been selling a large volume of cars through the Agriprocessors' supervisor to people in the Postville area. The Dealership managers had supplied vehicles directly to the Agriprocessors supervisor for resale in Postville, in violation of Iowa law, which requires all vehicle dealers be licensed. In the year 2005, more than 50 vehicles were sold to people in the Postville area. According to the DOT Investigator, sales to Postville residents appeared to represent approximately 90% of the business for the Dealership. In many cases, the dealership's files contained copies of the ultimate purchaser's resident alien or social security card and other identification information.
96. According to the Dealership managers, pursuant to the arrangement "C" had with the Dealership, "C" supervisor would contact the Dealership and



indicate the need for a specific type of vehicle. The Dealership would then purchase the vehicle at auction. The Agriprocessors supervisor would pick up the vehicle in Cedar Rapids and pay for the vehicle at that time. The Dealership managers did not know the price the Agriprocessors supervisor charged the customers in Postville.

97. Though the vehicles were sold to people in Postville, they were being titled in Des Moines County, Chickasaw County, and a few other counties. The information provided to the county treasurers was often different from the information contained in the Dealership records. A Special Agent with the Office of Inspector General, Social Security Administration, confirmed that the majority of the social security numbers used on applications for registration of vehicles did not belong to the person using the number.
98. The DOT Investigator was told, by unconfirmed sources, that the Agriprocessors supervisor forced Agriprocessors employees to purchase vehicles from him or they would be fired or given poor work shifts. According to an unconfirmed source, a former Clayton County Deputy Sheriff said the Agriprocessors' supervisor told the former deputy that the Agriprocessors' supervisor had \$80,000 of his personal money loaned out to Agriprocessors employees in connection with selling them vehicles.
99. In the fall of 2005, the DOT investigator attempted to speak with several of the purchasers of the vehicles. When he attempted to do so at the Agriprocessors plant, he discovered that the Agriprocessors supervisor ("C") had personally escorted the employee to the office for the interview with the DOT Investigator and waited outside the room during the interviews. When the DOT Investigator decided to terminate the attempt to interview employees at the plant, the Agriprocessors supervisor confronted the Investigator and appeared visibly angry about the investigation.
100. A short time later, the Investigator contacted an Agriprocessors' employee, Source #13, off site of the plant, and interviewed him/her about

the purchase of a vehicle from the Agriprocessors' supervisor. A few days after this interview, Source #13 filed a complaint with the Postville Police Department, asserting that the Agriprocessors' supervisor had threatened Source #13 about being interviewed by the DOT Investigator. Source #13 reported that the Agriprocessors supervisor threatened to harm Source #13 and also fired him/her.

101. The DOT Investigator learned from talking with Des Moines County Treasurer's Office personnel that a person hereafter referred to as Source #14 was involved in making applications to title and register cars in Des Moines County on behalf of people living in Postville. In the fall of 2005, the DOT Investigator interviewed Source #14 at the Des Moines County Treasurer's Office. Having been advised of and waiving his Constitutional rights, Source #14 stated that s/he would receive the application information or vehicle title information from two people in Postville, one hereafter referred to as Subject 1 (an Agriprocessors' employee) or another Subject Z. Source #14 received the documents (application information or title information for the transfer) via the mail, along with money. Source #14 then applied at the Des Moines County Treasurer's Office for the registration and title on behalf of the owner, using one of several addresses in the Burlington or West Burlington area. Source #14 advised her/his friends living at those addresses to expect to receive the registrations and titles in the mail. Source #14 arranged to pick the documents up from her/his friends and then sent them to Postville in bulk to be provided to the vehicle owner. Source #14 reported doing this more than 200 times, and s/he received a small fee each time.
102. On October 3, 2006, FBI and ICE Special Agents interviewed Source #15, a citizen of Guatemala. Source #15 stated s/he began work at Agriprocessors in October 2004, gaining employment by providing fraudulent social security and resident alien cards to the company. Source #15 began work in the turkey kill part of the Agriprocessors facility. Source #15 described the work as very difficult and that it hurt Source

#15's hands, so Source #15 requested a transfer to another area of the plant. Source #15's request was turned down by the Agriprocessors supervisor. Other Agriprocessors employees told Source #15 that, in order to get a favorable position in the plant, Source #15 would have to purchase a car from the supervisor. In January 2006, the supervisor approached Source #15 and offered to sell him/her a car, but Source #15 declined. When Source #15 asked for a transfer, the supervisor refused.

103. Your affiant knows, based on his training and experience, that undocumented aliens sometimes title vehicles in false identities using fraudulent documents and using false or fraudulent addresses to avoid detection by law enforcement and immigration authorities.

#### **EXPLOITATION OF ILLEGAL ALIENS AS INDICIA OF HARBORING**

104. Your Affiant is aware, from his training and experience, that those who employ illegal aliens often exploit the aliens in various ways. Those who knowingly employ or supervise illegal aliens, knowing their unlawful status, are able to exploit illegal aliens because illegal aliens are unlikely to contact authorities for fear they will be arrested and/or deported. Exploitation can take on many forms, such as requiring employees to provide money or other things of value to maintain employment or secure better working hours or tasks, providing sub-par working conditions, failing to pay overtime, and physically harassing or mistreating employees.
105. In this case, as outlined in paragraphs 86 through 98 above, there is probable cause to believe an Agriprocessors supervisor has assisted, for a cut of the proceeds, illegal aliens in obtaining false documentation in relation to purchasing vehicles, and thereby has aided in harboring the illegal aliens. The supervisor has also required illegal aliens to purchase vehicles through the supervisor in an attempt to secure better working conditions, as indicated by Source #15.
106. As further evidence of harboring illegal aliens through exploiting their reluctance to contact the authorities, your Affiant is aware that the Iowa Department of Labor has uncovered workplace safety problems at

Agriprocessors. On March 21, 2008 the Cedar Rapids Gazette reported that the Division of Labor Services for the State of Iowa issued to Agriprocessors 39 citations with proposed penalties of \$182,000 for allegedly violating state workplace safety and health standards. According to the article, a health inspection done on February 11, 2008, identified 13 serious health violations. On October 31, 2007, an inspection by the Division of Labor Services resulted in 26 citations, including two repeat violations.

107. On April 1, 2008, during testimony before the U.S. Senate Committee on Health, Education, Labor and Pensions, Agriprocessors was among three packing plants cited for having a history of safety violations. According to the testimony, during the period of April 2001 to February 2006, OSHA records show no less than twenty violations at AgriProcessors' Postville plant. Of these, twelve were identified by OSHA as serious. An examination of Agriprocessor's Postville plant's "OSHA 300" logs revealed five amputations along with dozens of other serious injuries such as broken bones, eye injuries and hearing loss. The witness also testified that there is concern that injuries are often unreported or under-reported. The witness also cited numerous reports in the media regarding workers' mistreatment at Agriprocessors, including a 2006 article "In Iowa Meat Plant, Kosher 'Jungle' Breeds Fear, Injury, Short Pay," published in a newspaper The Forward.
108. Following an article in The Forward, the Washington Post reported on July 7, 2007, that some conservative rabbis who toured the plant were shocked. " We found people arriving from the mountainsides of Guatemala on a Tuesday and being on the front of the production line on Wednesday . . . We saw people who could barely read Spanish getting training in English and having no idea what was said to them."
109. On March 27, 2007, over twenty current and former employees filed a civil suit in the U.S. Court for the Northern District of Iowa against Agriprocessors, alleging violations of the Fair Labor Standards Act. The

lawsuit alleged that Agriprocessors failed to pay workers for time spend preparing for and cleaning up after work. Seven of those plaintiffs are included among the employees listed on the third and fourth quarter of 2007 IWD reports as working for Agriprocessors using social security numbers which did not match the names to which they were assigned, or that were unassigned to any person. The lawsuit was settled out of court.

**REQUEST TO SEARCH FOR AND IDENTIFY ALL SUBJECTS OF CRIMINAL COMPLAINTS**

110. On April 16, 2008, the United States filed criminal complaints against 697 current Agriprocessors employees under their alias names, charging them with unlawfully using social security numbers in relation to their employment in violation of Title 42, United States Code, Sections 408(a)(7)(B); aggravated identity theft in violation of Title 18, United States Code, Section 1028A(a)(1); and/or possession or use of false identity documents for purposes of employment in violation of Title 18, United States Code, Section 1546. Three of those subjects have subsequently been encountered and arrested by local authorities on unrelated criminal charges. Because the true identities of the 697 subjects was unknown at the time, (and with the exception of three people remain unknown today) the court issued "John Doe" arrest warrants which describe the subject by the name under which the subject is employed at Agriprocessors. Each of these subjects was listed on the fourth-quarter payroll records obtained from IWD. (Though ICE has requested payroll records from IWD for the first quarter of 2008, IWD has advised that Agriprocessors has not yet reported that information to IWD.) There is probable cause to believe one or more of those subjects are present at Agriprocessors during regular working hours. This Search Warrant Application seeks authorization to search the Agriprocessors plant and curtilage for and identify any of those 697 employees for whom the United States obtained a criminal complaint.

**REQUEST TO SEARCH FOR AND SEIZE IDENTIFICATION DOCUMENTS  
FROM PERSONS**

111. As explained in the prior section, the government filed criminal complaints against 697 employees of Agriprocessors who were reportedly working there under aliases. With the exception of approximately 15 of those people for whom the government has photographs, (and the three who have recently been encountered by local authorities) the government cannot positively identify the other people who are subject to the arrest warrants due to their suspected use of assumed names and/or Social Security numbers or other means of identification. Moreover, determining the identities of all employees at the Agriprocessors's facility, including a determination of their lawful status (whether a United States citizen, lawful permanent resident alien, an alien eligible for employment, or an illegal alien) and what percentage of the workforce is illegally in the United States and employed at Agriprocessors, constitutes potential evidence of violations of law, including possible harboring of aliens by Agriprocessors and/or its management and supervisors. In other words, in harboring cases, the percentage of the workforce that is working legally, versus the percentage of the workforce that is working illegally, constitutes evidence of harboring admissible at a criminal trial against those accused of harboring the illegal aliens. Based on the facts set forth in this Affidavit, there is probable cause to believe that Agriprocessors' employees possess, either on their persons or in lockers or similar storage areas at the facility, company-issued identification cards, drivers' licenses and other forms of identification. (As part of this investigation, ICE Special Agents have confirmed from an Iowa DOT database that Iowa drivers licenses have been issued to many of the employees for whom ICE has "no-match" social security information.) Furthermore, false or fictitious immigration documents, social security cards, and similar fraudulent identification documents constitute contraband, the possession of which is itself illegal. Your affiant also knows from his training and experience that

illegal aliens often attempt to dispose of or discard identification documents during an immigration raid either at the instruction of their employer or based on their own volition. Management or supervisory personnel may sometimes pick up or collect these discarded identification documents in an effort to conceal the harboring of the illegal aliens. The agents intend to engage in consensual conversations with employees concerning their identification, and to request voluntary production of identification documents. This Search Warrant Application seeks authorization to, if necessary, search for and seize from each person believed to be an employee of Agriprocessors any and all Agriprocessors-issued identification cards, Agriprocessors-issued entry or proximity cards, drivers' licenses, or other means of identification from any person or any location within the Agriprocessors facility.

#### **REQUEST TO SEARCH AND SEIZE BIOMETRIC INFORMATION**

112. As stated in the previous paragraph, determination of the identities of all employees at the Agriprocessors's facility, including a determination of their lawful status (whether a United States citizen, lawful permanent resident alien, an alien eligible for employment, or an illegal alien) and what percentage of the workforce is illegally in the United States and employed at Agriprocessors, may constitute evidence of violations of law, including possible harboring of aliens by Agriprocessors and/or its management and supervisors. Moreover, Agriprocessors uses swipe cards and/or biometric devices to identify employees and as a form of time clock, registering the hours of employment. There is probable cause to believe that having employees place their hand on the biometric device used in the plant on the day of the search will reveal evidence of the identity of the employee and provide further evidence as to hours of work. Having the employees "clock out" using the biometric devices on the day of the search will, incidentally, aid in ensuring the employees are paid for any time they worked on the day of the search. This Search Warrant Application seeks authorization to search for and seize biometric

information using Agriprocessors' biometric identification system. This will be accomplished by having employees "clock out" by either placing their hand on the biometric device and/or using the swipe cards issued to employees as necessary to disclose the identity evidence contained in the system. This Search Warrant Application also seeks authorization to search for and seize from Agriprocessors any electronic or computer hardware, software, or storage devices utilized by the company in connection with the biometric identification system, as set forth below in more detail.

**REQUEST TO SEARCH FOR AND SEIZE ALL DES MOINES COUNTY VEHICLE TITLE AND REGISTRATION INFORMATION**

113. One or more Agriprocessors supervisory employees are involved in harboring, or aiding and abetting the harboring, of illegal aliens by assisting them to obtain titles and registrations for vehicles in their false names, and by arranging to have the vehicles titled and registered with false addresses in Des Moines County. This false information on the titles and registration documents aids illegal aliens in avoiding detection at their actual place of residence and in their use of false means of identification. There is probable cause to believe that vehicles bearing Des Moines County license plates located at the Agriprocessors' facility would contain title and registration information that would constitute evidence of this harboring activity and vehicle registration fraud. This Search Warrant Application seeks authorization to search all vehicles on the Agriprocessors property bearing license plates from Des Moines County for titles and registration documentation and any other evidence of the owner or use of the vehicle.

**REQUEST TO SEARCH AND SEIZE COMPUTER SYSTEM**

114. The foregoing establishes probable cause to believe that evidence of criminal activity is stored on the premises in the form of computer data. Computer hardware, software, and electronic files on the premises



therefore may be important to this criminal investigation because they may be used as storage devices that contain contraband, evidence, instrumentalities, or fruits of crime in the form of electronic data. Rule 41 of the Federal Rules of Criminal Procedure permits the government to search for and seize computer hardware, software, and electronic files that are evidence of crime, contraband, instrumentalities of crime, and/or fruits of crime. In this case, the warrant application requests permission to search and seize all records described in Attachment #2, including records that happen to be stored in electronic form. These records constitute evidence of crime. This application also requests permission to seize the computer hardware that may contain those electronic records if it becomes necessary for reasons of practicality to remove the hardware and conduct a search off-site.

115. Based upon my training, experience, and consultations with ICE Computer Forensic Agent(s), I know that information stored in an electronic format may be found not only on the hard disk drive of a computer, but on other computer hardware and storage media, including back-up tapes, diskettes, CD-ROMs, handheld organizers, and other devices capable of storing information in an electronic format. I also know that during the search of the premises it is not always possible to search computer hardware and storage media for data for a number of reasons, including the following:

(A) The volume of evidence: The volume of data stored on many computer systems and storage devices will typically be so large that it will be highly impractical to search for data during the execution of the physical search of the premises. Computer storage devices like hard disks, tapes, CD-ROM's, and Digital Video Disks (DVD's), can store the equivalent of thousands of pages of information. A single megabyte of storage space is equivalent to 500 double-spaced pages of text. A single

gigabyte of storage space, or 1,000 megabytes, is equivalent to 500,000 double-spaced pages of text. Storage devices capable of storing 160 gigabytes of data are now commonplace in desktop computers. Consequently, each non-networked, desktop computer found during a search can easily contain the equivalent of 80 million pages of data, which, if printed out, would result in a stack of paper over four miles high.

(B) Technical requirements: Searching computer systems is a highly technical process that requires specific expertise and specialized equipment. There are so many types of computer hardware and software in use today that it is impossible to bring to the search site all of the necessary technical manuals and specialized equipment necessary to conduct a thorough search. In addition, it may be necessary to consult with computer personnel who have specific expertise in the type of computer, software application, or operating system that is being searched.

(C) Files may be hidden or encrypted: Computer users can attempt to conceal data within computer equipment and storage devices through a number of methods, including the use of innocuous or misleading filenames and extensions. For example, files with the extension “.txt.” often are text files; however, a user can easily change the extension to “jpg.” to conceal the text file and make it appear that the file contains an image. Computer users can also attempt to conceal data by using encryption, which means that a password or device, such as a “dongle” or “keycard,” is necessary to decrypt the data into readable form. Therefore, a substantial amount of time is necessary to extract and sort through data that is concealed or encrypted to determine whether it is evidence, contraband, or instrumentalities of a crime. The forensic procedures used to recover hidden, compressed, password-protected or encrypted files can be extremely time consuming, even for a qualified expert. In fact, if robust

encryption software is utilized to encrypt a file and the password is unknown, it may be impossible to decrypt the file in order to view the information contained within it. Files encrypted with less secure encryption algorithms may still require considerable time or outside agency assistance to decrypt, absent a password.

(D) Danger of the Destruction of Evidence: Computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction, both from external sources and from destructive code embedded in the system as a "booby trap." In order to maintain the integrity of the original evidence, a qualified expert may need to conduct a forensic examination of the storage media in a controlled environment, such as a law enforcement laboratory, where scientific procedures and specialized software designed to protect the integrity of the original media will be used.

116. ICE Computer Forensic Agent(s) have also advised me that in order to retrieve electronically stored evidence from a seized computer, agents may be required to seize most or all of a computer system's equipment, including hardware, peripherals, software, documentation, security devices, and passwords. This is true because of the following:

(A) Some operating systems, software or hardware configurations require the original equipment and/or installed software to be present in order to access the information contained on the system.

(B) Peripheral devices that allow users to enter or retrieve data from the storage devices vary in their compatibility with other hardware and software.

(C) The Computer Forensic Agent may have to install software used by the suspect on a government computer in order to retrieve information the suspect may have stored using that software. The CFA may need to refer to software and hardware documentation maintained by

the suspect to complete his/her analysis in a timely manner. The suspect's computer documentation may also contain hand-written notes specific to the seized computer system.

(D) Physical keys, encryption devices, dongles, and similar physical items may be necessary to gain access to the computer equipment. Passwords, pass-phrases, password files, and similar decryption codes may be required to access specific information stored on the seized computer system.

117. Therefore, it is requested that agents executing this search warrant be authorized to employ the following procedure upon execution of this search warrant:

(A) After the premises have been secured, an ICE Computer Forensic Agent and/or other law enforcement personnel trained in searching and seizing computer data (the "computer personnel") will make an initial review of any computer hardware and storage media to determine if it is possible to search these items on-site in a reasonable amount of time and without jeopardizing the ability to preserve the data. If for some unforeseen circumstances, the computer personnel are not present during the execution of the search warrant, then all hardware, storage media, peripherals, software, documentation, security devices, and passwords, as defined below, will be seized and transported to an appropriate law enforcement facility for review. The hardware and storage media will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized, as set forth in Attachment B.

(B) If the computer hardware and storage media cannot be searched on-site, then the computer personnel will determine whether it is practical to copy the data during the execution of the search in a reasonable amount of time without jeopardizing the ability to preserve the

data. The computer personnel will also determine if these backups will be useable for an off-site examination conducted at a later date without the original equipment. As stated above, some operating systems, software or hardware configurations require the original equipment and/or installed software to be present in order to access the information contained on the system.

(C) If the computer personnel determine it is not practical to perform an on-site search or make an on-site copy of the data, then all hardware, storage media, peripherals, software, documentation, security devices, and passwords, as defined below, will be seized and transported to an appropriate law enforcement facility for review. The hardware and storage media will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized, as set forth in Attachment B.

(D) If law enforcement personnel determine, either on-site or during a subsequent off-site search, that any hardware, storage media, peripheral, software, security device, or data (1) is an instrumentality of the offense stated above, meaning that it was designed or intended for the use of, or is being or has been used, as the means of committing the offense; (2) contains any contraband, such as counterfeit or stolen software, child pornography, national security information, or unauthorized access devices such as stolen credit card numbers; (3) is the fruits of criminal activity; or (4) is otherwise criminally possessed, the property shall be seized and not returned pursuant to Federal Rule of Criminal Procedure 41(b).

(E) Any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offense, (2) a fruit of the criminal activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the

offense specified above.

(F) In searching the data, the computer personnel may examine and copy all of the data contained in the computer equipment and storage devices to view their precise contents and determine whether the data falls within the items to be seized, as set forth in Attachment B. In addition, the computer personnel may search for and attempt to recover deleted, hidden, or encrypted data to determine whether the data falls within the list of items to be seized.

(G) All hardware, storage media, peripherals, software, documentation, security devices, and passwords that were seized for off-site examination, and are not otherwise subject to seizure, shall be returned by the government to the subject premises within a reasonable period of time.

118. For purposes of this affidavit, the foregoing terms are defined as follows:

(A) Hardware: Hardware includes the following equipment: (1) data-processing devices containing central processing units, such as "desktop", "tower", "laptop" and "notebook" computers, hand-held electronic organizers, and "personal digital assistants"; (2) internal and external storage devices, including magnetic storage devices such as hard disk drives, diskette drives, and tape drives, optical storage devices such as CD-ROM drives, CD-R/CD-RW recorders, and DVD drives/recorders, and other memory storage devices such as smart-card readers.

(B) Storage Media: Storage media includes any material capable of storing information in a manner that can be used by computer hardware to save and/or retrieve information. Examples of storage media include diskettes, CD-ROM's, CD-R's, CD-RW's, DVD's, DVD-R's, DVD-RW's, magnetic tapes, ZIP disks, JAZ disks, Peerless disks, SparQ disks, ORB disks, optical disks, smart-cards, EPROMS, and digital memory media

such as CompactFlash, SmartMedia, Sony Memory Sticks, and USB "thumb" or "key" drives.

(C) Peripherals: Peripherals are equipment that send data to, or receive data from, computer hardware, but do not normally store user data. Keyboards, mice, printers, scanners, plotters, video display monitors, modems, cables, and certain types of facsimile machines are examples of peripherals.

(D) Software: Software is digital information that can be interpreted by computer hardware to direct the way hardware works. Software is stored in electronic, magnetic, optical, or other digital form. It commonly includes programs to run operating systems (like Microsoft "Windows"), applications (like word-processing, graphics, or spreadsheet programs), utilities, and communications programs.

(E) Documentation: Computer-related documentation consists of written, recorded, printed, or electronically stored material which explains or illustrates how to configure or use computer hardware, software, or other related items.

(F) Security Devices: Security devices include physical keys, encryption devices, "dongles", and similar physical items needed to gain access to associated computer hardware.

(G) Passwords: Passwords include alphanumeric strings, pass-phrases, password files, and similar decryption codes necessary to access data that is encrypted or otherwise inaccessible.

119. No wire communications or electronic communications shall be intercepted during the execution of this search warrant. I have no information to indicate that the computer(s) to be searched operate in any way as an Internet Web Site Host/Server, Internet File Transfer Protocol (FTP) server, Internet Chat Server, or Internet Email forwarder or server. As such, it would appear that the provisions of the Wire and Electronic

Communications Interception Act, 18 U.S.C. § 2510 et seq. do not apply. Should information of this type be discovered, the government will preserve it and set it aside.

120. I have no information to indicate that any "work product" or "documentary" materials are stored on the computer(s) to be searched, for the purpose of disseminating it to a public newspaper, broadcast, or other similar form of public communication. Should agents become aware of any such materials as described in 42 U.S.C. § 2000aa, they shall be returned as quickly as circumstances permit.

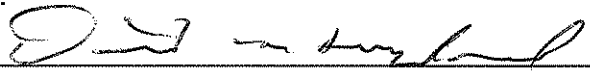
### **CONCLUSION**

121. Based on the above information, there is probable cause to believe that evidence of the crimes of harboring illegal aliens in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iii), 1324(a)(1)(A)(iv), 1324(a)(1)(A)(v)(II), and 1324(a)(1)(B)(I); engaging in a pattern or practice of hiring and continuing to employ undocumented aliens in violation of Title 8, United States Code, Sections 1324a(a)(1)(A), 1324a(a)(2) and 1324a(f)(1); document fraud in violation of Title 18, United States Code, Section 1546(b), misuse of a social security number in violation of Title 42, United States Code, Section 408(a)(7)(B); and aggravated identity theft in violation of Title 18 United States Code, Section 1028A(a)(1); will be found on the property described in Attachment 1.



122. The items and/or persons to be searched for, identified, and/or seized are set out in Attachment 2. The United States requests an order sealing this application and search warrant until entry is made on the premises to execute the search warrant, except with respect that portion of Attachment 2 which lists the names of the 695 people for whom there are criminal complaints. The United States requests those names remain sealed until further order of this Court because the criminal complaints have been already been ordered sealed until further order of this Court, and the names may also be victims of identity theft.

Further your affiant sayeth not.

  
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David M. Hoagland, Senior Special Agent  
U.S. Immigration and Customs Enforcement

Subscribed and sworn to before me this 9<sup>th</sup> day of May, 2008.

  
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JON STUART SCOLES  
Magistrate Judge