Greenberg Traurig

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The Immigration Debate Continues on Capitol Hill

During the last week of September, House members, felt pressure to pass legislation before the September 30 pre-election recess, and worked hard to attach various enforcement only measures to must-pass legislation. Enforcement advocates had a victory when Congress agreed to spend $1.2 Billion on border fences and vehicle barriers along the Mexican border as part of the Department of Homeland Security spending plan. However, other attempts to attach enforcement measures in must-pass legislation failed and, on September 25, 2006 Senate appropriators prevented measures from being attached to the Department of Homeland Security appropriations bill. As a result, House leaders actively pursued the Department of Defense Authorization as a means of advancing their enforcement-only agenda. Some of the measures which enforcement only proponents managed to include in the legislation include: Section 101 and 102 of the Dangerous Alien Detention Act Contained in H.R. 6094 which, despite Supreme Courts decisions to eliminate this practice, allows for the indefinite detention of aliens awaiting removal; Section 1010 of H.R. 6095, which gives state and local police the authority to investigate, arrest and detain non-citizens for civil violations of their immigration status; and Sections 301-303 of the Alien Gang Removal Act contained in H.R. 6094 which grants the executive branch the right to designate "criminal street gangs" and subsequently strip gang members of virtually all of their rights. Though these pieces of legislation passed the House, they did not pass the Senate and therefore were not enacted. It is possible that they will be resurrected and reconsidered during the upcoming lame duck session.

On September 29, 2006, Congress enacted the "Security Fence Act" (H.R. 6061) authorizing the construction of a 700 mile long fence, made out of double layers along the U.S.- Mexico border. The bill requires surveillance cameras to be posted along the Arizona border by Spring of 2007 and the fence to be completed by the end of 2008. House Republicans have been pushing hard for this measure to pass to appear tough on immigration before the November Elections. Sen. Bill Frist stated "Fortifying our borders is an integral component of national security, we can't afford to wait." The bill passed with a vote of 80 to 19. President Bush has indicated that he will sign the bill into law a departure from his previous calls for comprehensive immigration reform. It is our understanding that the White House views these measures as a "down payment" for more comprehensive action to occur after elections.

Critics of the bill state that it will do little to resolve the socio-economic factors that encourage illegal immigration. Furthermore, it will cost $6 million to construct, significantly below the $1 billion allocated to it in the Homeland Security spending bill. Critics also note that the fence would still leave 1,300 miles along the border open. In response to President Bush's expression that he would probably sign the bill into law Senate Minority Leader Harry Reid stated

that he had given into the "radical anti-immigrant right wing of his party." Mexico has also stated that it will try to persuade President Bush not to sign the bill into law and the foreign secretary has publicly criticized it.

What can we expect now?

Congress recessed on September 30, 2006 and Members returned to their home states to prepare for November elections. Though it is often challenging to pass meaningful legislation on issues such as immigration during politically charged election years, with this challenge comes the opportunity to pass legislation during the lame duck session. A "lame duck" session is when Congress (either chamber) reconvenes following the November general elections to consider various items of business. Some lawmakers who return for this session will not be in the next Congress due to election losses. Hence, they are informally called "lame duck" Members participating in a "lame duck" session. These Members, in particular, are not subject to political pressures being that they are not returning members of the House or Senate.

Several different scenarios can occur during the upcoming lame duck session. First, Senator Specter (R-PA), Chairman of the Senate Judiciary Committee and Representative Sensenbrenner (R-WI), Chairman of the House Judiciary Committee are in continued talks regarding immigration reform, specifically the Specter "gold card" program, initially in the Chairman's Mark. By way of background, the gold card program addresses those illegal immigrants who entered the United States before January 4, 2004 and would create a guest-worker program to bring in more foreign laborers. Applicants for the gold card would undergo a background check by the Department of Homeland Security, then be eligible for two-year work visas that would be renewable. In addition there would be a cancellation of removal option for those who could not participate in the gold card program.

If the Specter-Sensenbrenner Talks fail, we may see a movement towards passing the Hutchinson-Pence Plan. This Plan is an immigration proposal that represents a compromise of positions without sacrificing comprehensive reform. The Plan has a three prong focus:

- Securing the U.S. Border by Increasing Personnel, Equipment, Technology and Barriers
- Creating a Temporary Worker Program - the Good Neighbor SAFE (Secured Authorized Foreign Employee) Visa Program
- Focusing on Interior Enforcement with a particular focus on Employment Eligibility and Employer Sanctions for bad-faith employers

GT will continue to provide updates on the immigration debate on Capitol Hill for the latest up-to-date information please visit the Congressional portion of our website at http://www.gtlaw.com/practices/immigration/congress/index.htm.

Meeting and Beating the H-1B Cap for Fiscal Year 2008

Identifying Possible New Hires Now

To the dismay of many employers, the H-1B visa allotment for the upcoming fiscal year (October 2006 to September 2007) was reached well before the year even started proving once again that there is a substantial demand for the issuance of new H-1B visas irrespective of any commentary on the slowdown of the U.S. economy or lack of growth in the IT sector. This is mainly due to the fact that the reduced visa numbers do not account for every other industry that desperately needs the H-1B visa category quota numbers. Given this trend, we suggest that companies begin identifying any candidates that they would like to sponsor for H-1Bs in the next fiscal year sooner rather than later. Filing for fiscal year 2008 will begin on April 1, 2007, and, absent any legislative relief, it will be even more crucial for companies to be organized and focused as the pent-up demand will likely be even greater this year.

To organize internal processes and procedures, we suggest a full scale review of existing employees in other visa categories, as well as any potential new hires. For example, companies should perform a review of employees who are in the U.S. as students in F-1 status and currently working based on Optional Practical Training. Such employment authorization is limited to one year. Companies should determine if these employees are long-term candidates who will need H-1B sponsorship. We also recommend a review of existing intracompany transferees who may be reaching the maximum period of stay in the U.S. (7 years for an

L-1A manager/executive and 5 years for an L-1B specialized knowledge employee); TN visa holders who have a one-year period of authorized stay in the U.S. and who may want to initiate the permanent residence process. Such a review can ensure that you start the permanent residence process in time to avoid interruptions in their work authorization.

In addition to reviewing the status of current employees, it is key to review present staffing needs to ensure that any needs for prospective additions are identified, to the extent possible. This can included educating hiring managers about the H-1B process and the related timelines, as well as informing human resource managers and coordinators, as well as the General Counsel's office of the requirements for the visa category and the issues with delayed response times.

An audit of all employees that are currently on temporary, non-immigrant visas may also help the company identify candidates that the company may wish to sponsor for legal permanent residency in the U.S. As a result of backlogged priority dates in many of the employment based categories, there is a substantial queue for receiving U.S. legal permanent residency and we suggest that the process be initiated early on in an individual's nonimmigrant period given the time limitations placed on many of the temporary visa categories.

Once the relevant candidates are identified, we suggest that the documentation be prepared in advance to the extent possible so that the filings are prepared and ready for submission when the numbers become available and preferably within the first one to two weeks of availability.

Alternative Strategies to an H-1B: Thinking Outside the H-1B Box

When the H-1B numbers run out, its time for attorneys to get creative, thinking of other possible visa alternatives and timing strategies to meet their clients strategic staffing goals. In some cases, thinking outside the box allows for an even better fit, in other cases, a match is tenuous at best. Here are some of the "success" stories of finding an alternative solution:

A prospective H-1B set up his own company and applied for an E-2 because he could not work for the company that wanted to hire him -- there were no Hs available at the time. He has been here in E-2 status early this year and opted against doing an H with the original prospective employer and to continue on his E because he was doing so well.

A recent college graduate who was completing his Optional Practical Training wanted to continue his training in a unique field not available in his home country, his employer did not have any openings in their training program but did not wish to lose him. After exploring ways to keep him in the U.S., the company opted to make an exception, provide him with a slot in their training program and then transfered him to an overseas location after the training was completed.

A doctor overseas was interviewed and made an offer by a U.S. based for-profit medical group contingent, on receiving U.S. work authorization just as the cap was being reached. As he was not intending to work for a non-profit entity, he would not have had any other option but to wait for a new quota number. The perfect strategy was to explore his background, which includes numerous publications, conference presentations and significant press coverage in the field to see if another visa category would fit.

However, for each of these success stories, there are many other individuals that companies have identified and wished to hire that they were unable to as the H-1B was the only available immigration vehicle for them. This is why, its paramount to plan ahead for all H-1B future hires.

If you need assistance in identifying appropriate candidates for an H-1B visa or want to explore alternative visa categories such as some of those mentioned above, please contact the legal professional with whom you work at Greenberg Traurig.

Worksite Enforcement Update, ICE is Busy, Busy, Busy

Immigration and Customs Enforcement (ICE) has been busy conducting worksite enforcement operations across the country and in various industries. As part of the Secure Border Initiative (SBI) ICE has sought to secure America's borders by identifying and removing illegal aliens employing methods similar to the way they track drug traffickers. ICE has adopted an approach that penalizes employers and high level managers heavily with both civil and criminal penalties. ICE has also allocated additional funding for employing informants as part of their campaign to track, arrest and penalize illegal immigrants and their employers. Further, ICE is working with government offices for immigration enforcement in an effort to house ICE counsel in U.S. Attorney offices in order to pursue criminal charges where possible.

As part of these efforts, once ICE identifies employers who knowingly hire illegal aliens, they are imposing mandatory criminal charges on employers including: harboring, or aiding and abetting harboring where the employer has employed, housed and/or transported illegal immigrants in the U.S. for their commercial or financial gain. As a result, company executives and/ or managers will continue to face felony charges that subject them to prison time as well as heavy financial penalties. Companies need to be concerned with having their assets (money and property) seized by the government and have additional financial penalties imposed upon them. ICE has been able to sustain these charges by arguing that these companies were only able to realize their financial and business objectives as a result of illegal immigrant labor.

Examples of this approach taken by ICE have been seen across the nation, most notably when they filed criminal charges against corporate officers of Skyworks Activities, Inc., a cleaning company. America Miranda and Rafael Miranda, officers of the company appeared in the U.S. District Court of New York to face charges of knowingly transporting illegal aliens from Georgia to New York and employing them to work as cleaners with knowledge of their illegal status in the United States. This ICE operation also resulted in the arrest of the 41 illegal aliens that were hired by Skyworks Activities, Inc.

Similar raids were conducted in Wichita, Kansas, where ICE filed charges against a business owner and two of his managers. The defendants appeared in the U.S. District Court for the District of Kansas to face 28 counts of knowingly hiring and employing illegal immigrants, making false statements to the government on their Form I-9s, misusing Social Security numbers, knowingly accepting fraudulent documents as proof of employment authorization, committed aggravated identity theft and harboring illegal aliens. ICE is also interested in pursuing money laundering charges for employers who make their payrolls in cash. We have learned of a construction related case where laborers were being paid in cash and targeted for investigation.

Secretary Myers has announced that this approach to worksite enforcement is just the beginning. "These two cases should put businesses on notice that ICE will criminally charge those employers who knowingly transport and employ illegal aliens as part of their business model. We will use all of our authorities to shut down businesses that exploit and harbor an illegal workforce." She further stated that ICE has begun to work with United States Attorneys across the country in cracking down on employers of illegal immigrants. "The United States Attorneys have been critical partners in our efforts to enforce our worksite laws."

ICE also recently announced that they together with Customs and Border protection (CBP) will allocate $2 million to paying informants to provide them with tips to aid them in identifying illegal aliens and employers who hire them. The $2 million is an increase from prior years for both organizations. Based on an informant's tip, ICE was able to conduct the largest worksite enforcement operation in its history, the raid on IFCO a pallet manufacturer in April of 2006. This operation resulted in the arrest of over 1,200 illegal employees and seven top-level IFCO executives.

GT will continue to monitor ICE worksite enforcement operations and report on new enforcement tactics taken by the Agency. We urge employers to contact immigration counsel to ensure that they are in compliance with employment verification laws and IRCA, as the fines imposed upon employers continue to grow as a result of ICE's aggressive worksite enforcement campaign. Proactive reviews and due diligence are now more important and cost-effective than ever before.

DHS Issues Best Business Practices For U.S. Employers

In July, the Department of Homeland Security (DHS) announced a new best practices initiatives entitled, "ICE Mutual Agreement between Government and Employers" or "IMAGE," to partner with U.S. employers in strengthening a legal workforce. Additional goals include a decrease in the number of unlawful workers, bad business practices associated with willful hiring of undocumented workers, as well as education and training in compliance issues. Employers are asked in part to register with the Basic Pilot Employment Verification Program which is currently being used by 10,000+ employers by visiting https://www.vis-dhs.com/EmployerRegistration, as well as agree to an I-9 audit conducted by Immigration and Customs Enforcement (ICE).

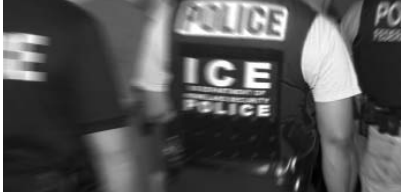
Initial feedback on this program includes concerns over subjecting companies to ICE audits with no safe harbor provisions. If your company is considering joining this program, consultation with immigration and employment counsel is recommended to address potential issues relating to company liabilities as well as employment and national origin discrimination issues.

These Best Hiring Practices as defined by ICE under the Image Program include:

- Use the Basic Pilot Employment Verification Program for all hiring;
- Establish an internal training program, with annual updates, on how to manage completion of Form I-9 (Employee Eligibility Verification Form), how to detect fraudulent use of documents in the I-9 process, and how to use the Basic Pilot Employment Verification Program;
- Permit the I-9 and Basic Pilot Program process to be conducted only by individuals who have received this training—and include a secondary review as part of each employee's verification to minimize the potential for a single individual to subvert the process;
- Arrange for annual I-9 audits by an external auditing firm or a trained employee not otherwise involved in the I-9 and electronic verification process;
- Establish a self-reporting procedure for reporting to ICE any violations or discovered deficiencies;
- Establish a protocol for responding to no-match letters received from the Social Security Administration;
- Establish a tip line for employees to report activity relating to the employment of unauthorized aliens, and a protocol for responding to employee tips;
- Establish and maintain safeguards against use of the verification process for unlawful discrimination;
- Establish a protocol for assessing the adherence to the "best practices" guidelines by the company's contractors/subcontractors; and
- Submit an annual report to ICE to track results and assess the effect of participation in the IMAGE program.

Employers who comply with the best practice initiatives will be considered "IMAGE certified."

It is also interesting to note the timing of this program. While there have not been many takers interested in signing on it is clear that the local ICE field offices are not in a position to handle a large state registration and the responsibilities that come with it.



States and Local Agendas on Immigration Laws

States have responded to the federal government's inaction to comprehensive immigration reform by taking matters into their own hands. In the last three months a number of states and municipalities have enacted strict legislation aimed at cracking down on illegal immigrants. This legislation has been the subject of much debate across the country as a number of cities are considering implementation of similar measures.

In Pennsylvania, the City Council of Hazelton approved a measure by a 4-1 vote that called for the revocation of business licenses of companies that hire illegal aliens, imposes $1,000 a day fines on landlords who rent to illegal aliens and makes English the official city language. The ordinance would also deny city contracts to any business that knowingly hires illegal aliens. Furthermore, individuals can face sanctions for failing to act in any way that would facilitate undocumented aliens from being arrested anywhere in the United States. The Mayor of Hazelton Lou Barletta who introduced the measure stated "illegal immigrants are destroying the city, I don't want them here period. The illegal citizens, I would recommend they leave." Since the passage of this ordinance a number of other towns and counties across the country have passed and/ or stated that they are considering passing similar legislation.

Colorado is also debating the problem of illegal immigration. Recently, the legislature approved a measure that would deny illegal aliens a number of social services including: unemployment checks, grants to pay energy bills, professional or business licenses and some public medical care. The legislature also adopted another measure that requires all employers in the state to verify the identity and eligibility of all new hires. Employers must confirm whether the individual is a legal resident of the U.S. prior to hiring them. Employers are subject to penalties if they show a reckless disregard regarding the employee's immigration background. These measures are stricter than current federal I-9 regulations.

In New Jersey, the town of Riverside passed the Illegal Immigration Relief Act that contains provisions similar to Hazelton's. The Act bans employers and landlords from employing or providing housing for illegal immigrants. Employers who are found to have hired illegal workers can lose their business license for up to five years and face $1,000 fines for each violation.

Utah has also introduced its own legislation aimed at illegal immigrants. These proposals include targeting employers who continue to hire illegal immigrants, requiring proof of citizenship prior to being eligible to receive state benefits, and repealing a law that permits illegal aliens to receive in- state tuition rates. The debate in Utah has become so heated that some representatives in the House are calling for the state attorney general to sue the federal government over inaction on immigration reform.

This strict immigration legislation has been criticized across the nation by immigrant and civil rights activists. Many of them have questioned whether such harsh measures can survive judicial scrutiny. In fact, the American Civil Liberties Union of Pennsylvania, the national ACLU's Immigrants' Rights Project, the Puerto Rican Legal Defense and Education Fund, the Community Justice Project and others have filed a lawsuit claiming that the Hazelton ordinance is unconstitutional. In New Jersey, a similar lawsuit was filed by a civil rights group against the town of Riverside.

Article I, Section 8 of the United States Constitution gives the federal government the exclusive power to regulate immigration. This means that only Congress can enact laws that directly relate to the admission of aliens into the United States. States can only enact legislation regarding immigration through their tenth Amendment police powers. Usually these laws are related to employment regulations and health that affect immigrants within the state, including wage laws, workers' compensation laws and occupational health and safety laws. However, any legislation that states enact cannot interfere with federal legislation. The Constitution of the United States contains a Supremacy clause, that holds that federal law is supreme to any state law. Thus, any state law that conflicts with federal law is preempted and deemed unconstitutional. Furthermore, the fourteenth Amendment's Equal Protection Clause prohibits states from enacting legislation that is overly discriminatory towards legal or illegal aliens. In order to impose a discriminatory burden on an alien the state must have a substantial interest in doing so, not an easy burden to meet.

A number of cases have addressed these issues. For example, in *Plyer v. Doe*, the Texas legislature attempted to deny enrollment in state schools to the children of undocumented aliens. In this case, the court ruled that the state did not have substantial interest to deny education to these children and that this violated the Equal Protection Clause. In 1994, California passed Proposition 187, which would limit public, social and educational services to illegal aliens. The legislation would have forced public institutions to examine the immigration status of individuals and report suspected illegal immigrants to federal authorities. There was no hearing, review or appeal provisions in the legislation. After a lengthy legal battle, the ninth circuit determined that the legislation was unconstitutional on both federal preemption and equal protection grounds. In New Hampshire, the district court held that the state's attempt to arrest and deport illegal aliens under a trespassing statute was unconstitutional as it interfered with the federal government's ability to enforce immigration laws.

It is likely that courts reviewing the recent enforcement only legislation will find these ordinances unconstitutional. For example, denying public benefits to illegal immigrants is a violation of the Equal Protection Clause. These laws cannot possibly meet the requirements that the state have a substantial interest in passing discriminatory measures aimed at illegal immigrants. The answer to this issue rests with Congress passing a piece of legislation aimed at comprehensive immigration reform. In Hazelton and in Riverside these measures have already had legal actions filed in District Court questioning their constitutionality and to stop them from becoming effective. GT will continue to provide updates on state legislation addressing illegal immigrants and judicial challenges to these measures.

The Real Costs and Consequences of Participating in the BASIC Pilot Program

This past April, the Department of Homeland Security ("DHS") announced the formation of a new "National Security and Records Verification" (the "NSRV") directorate within U.S. Citizenship and Immigration Services ("USCIS"). At the time of its formation, this new operational directorate -- led by Acting Associate Director of the "Domestic Operations" division, Ms. Janis Sposato -- consisted of two divisions, the "Fraud Detection and National Security" division ("FDNS") and the Records division. Shortly thereafter, a third division was added to the NSRV and has since been referred to as the Verification division. With responsibilities shared between them, FDNS will participate in several enforcement-related capacities, including functioning as the liaison between USCIS and local and state law enforcement agencies, performing intelligence and fraud detection functions, and supervising national security-related immigration cases. NSRV's Records division, on the other hand, has assumed responsibility for storing and retrieving nearly 100 million, mostly paper-based, immigration records. Lastly, the new Verification division, headed by Ms. Gerri Ratcliff ("Division Chief Ratcliff"), is now responsible for organizing, maintaining and managing both the Basic Pilot Employment Verification (the "Pilot Program") and SAVE ("SAVE") programs, each of which allows voluntarily-participating employers to use an online database to complete their employment verification (i.e. I-9) responsibilities by checking the employment eligibility status of newly-hired employees against DHS and Social Security Administration (the "SSA") databases.

The Pilot Program was first authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and was originally launched in November of 1997. At that time, it was only available to employers in a limited number of states; however, in December 20, 2004, the Pilot Program became available to employers in all 50 states and the District of Columbia. Administered by USCIS and conducted jointly by DHS and the SSA, today the Pilot Program is being used by over 10,000 employers nationwide. It has also received extensive support from the U.S. federal government. More specifically, in 2003, the Pilot Program was extended until November 2008. In addition, the President's FY07 budget included a request to allocate $110 million for further expansion and improvements to the Pilot Program. In fact, USCIS Director Emilio Gonzalez declared that "participation in the Employment Verification Program is the solution for businesses committed to maintaining a legal workforce. Through the program, DHS is providing employers with information needed

to ensure their newly hired employees are fully eligible to work in the United States. In the process, we're protecting jobs for authorized U.S. workers."

Most recently, on August 24, 2006, DHS announced that it is preparing to use the Pilot Program as yet another enforcement tool in its efforts to minimize unauthorized employment and discourage illegal immigrants from coming to the U.S. to work. As a result, Division Chief Ratcliff has publicized plans between her office (i.e. the Verification division) and ICE to cooperate under the terms of a new Memorandum of Understanding (the "Memorandum"). Although the Memorandum has not become available to the public and its specific terms have not been produced, rumor has it that the Verification division has agreed to refer certain questionable cases within the Pilot Program to ICE for further investigation. It appears this is not the case. Ms. Ratcliffe confirmed to GT attorneys that indeed there would not be a singling out of employers. Rather the focus in shared information would be on trends and specific problems. For example, if the same social security number was being used by 150 applicants in three different states an investigation would be initiated. To date, exactly which types of cases would trigger an ICE referral and the parameters defining what can get referred to ICE remains undefined. To boot, the Verification division has also made known its intention to begin a "data mining" initiative within the Pilot Program itself. This new project would enable DHS to review an employer's information within the Pilot Program to determine whether employers are verifying only their foreign employees' employment eligibility. Under this budding program, if DHS believes an employer is conducting discriminatory activities, the employer will be contacted by DHS and *reminded* of the legal requirements of the I-9 process.

Given the government's increased dependence on the Pilot Program as a resources for conducting its enforcement initiatives, in general GT continues to caution its clients against using the Pilot Program as long as participation within the Pilot Program remains voluntary. There is still a valid fear that with the ongoing development of unregulated agreements, an employer seeking to participate in the Pilot Program as part of its good-faith efforts to remain compliant, may nevertheless be setting itself up -- albeit inadvertently -- for an unexpected, inconvenient and unnecessary inquiry from ICE regarding its employment verification practices. GT is currently working with the USCIS Verification office in an effort to improve the Program and provide feedback on employer concerns.

GT continues to monitor developments in this area and will update you as we receive any additional information.

2008 Diversity VISA Lottery Program

On Wednesday, October 4, 2006 the U.S. Department of State will begin accepting applications for the 2008 Diversity Visa Lottery. The applications may only be accessed electronically at www.dvlottery.state.gov. The State Department has stated that they encourage applicants to apply as early as possible because they expect as the end of the registration period nears (December 3, 2006) that their website will have significant delays.

The Lottery allocated permanent residence visas (green cards) to applicants from six different geographic world regions. Visas are allocated according to the rates of immigration from each region. Thus, applicants from countries with lowest immigration rates to the United States receive the most visas. No diversity visas are allocated to countries that send more than 50,000 immigrants to the U.S. over a period of five years. Which excludes applicants from Brazil, Canada, China (mainland born), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Philippines, Peru, Poland, Russia, South Korea, United Kingdom (except Northern Ireland).

Individuals will be selected randomly by computer and will be notified by mail between May and July 2007. Applicants who win the diversity lottery are eligible to be accompanied to the U.S. by their spouse and any unmarried children under the age of 21 years.

Global Immigration

New U.S. e-Passport

News for U.S citizens…Beginning August 14, 2006 the Department of State began issuing new tourist (blue cover) Electronic Passports (e-Passport) at the Colorado Passport Agency. Diplomatic and Official e-passports have been issued since December 2005. The U.S. anticipates having all 17 domestic passport agencies issuing e-Passports by the end of 2006. The e-Passports contain either 28 pages or 52 pages, compared to 24 or 48 for older passports. It contains all the information that is on the data page of a current passport. The new passport combines face recognition and contactless chip technology, which will be embedded in the back cover of the passport.

New U.S. Emergency Photo-digital Passport

The State Department will also be issuing a new EPDP (Emergency Photo-Digitized Passport) in addition to the e-Passport. The EPDP is a twelve-page emergency U.S. passport intended to replace the machine-readable and other passports that Foreign Service posts currently issue around the world to Americans who cannot wait to receive a full-validity, domestically-issued passport. They are not E-Passports, but do contain biodata, an image of the bearer, and machine-readable zone which are printed onto a foil located in the blank book.

GT Attorneys on the Cutting Edge of Immigration Reform and ICE Operations

With the nation's attention riveted on the prospect of Comprehensive Immigration Reform and recent ICE action, GT attorneys have been very busy in the past few months. In recent months, Shareholder and co-chair of the Essential Workers Coalition Laura Reiff appeared on a number of news programs and was featured in several publications discussing illegal immigration, border security, the creation of a guest worker program and the recent congressional field hearings on immigration reform. Laura has spent the past few months working closely with key Congressional members, as well as representatives of the Bush administration to shape and draft practical immigration reform legislation. Most recently, Laura has met with administration officials to discuss increased worksite enforcement operations. The administration has made it clear that they will pursue bad-faith, egregious violators who actively employ illegal hiring practices. Executive officials also stressed that they are particularly concerned with bad-faith employers at critical infrastructure sites. The Administration has also stated that they will pursue employers of illegal aliens based on informant tips. For this reason, GT attorneys have been actively working with many companies, across a variety of sectors to "clean house" and bring employers into compliance with employment verification procedures. At this point, Congress is in a holding pattern with the face of immigration reform changing constantly. One thing is for sure, whatever legislation is ultimately enacted it will have Laura's fingerprints all over it. Laura Reiff and fellow Shareholder Dawn Lurie were invited to speak to employers, corporate counsel and immigration practioners at an interactive teleconference entitled "Employer Liability for Undocumented Workers: Strategies for Managing Risks in an Era of Heightened Enforcement." Laura will also be speaking at the following upcoming events:

- American Subcontractors Association, September 21, 2006, Bethesda, MD
- United States Hispanic Chamber of Congress 27th Annual National Conference, September 23-26, 2006 Philadelphia, PA
- Practicing Law Institute 39th Annual Immigration & Naturalization Institute, October 10, 2006, PLI in New York City, NY
- Tile Roofing Institute's Fall Industry Forum, November 14, 2006, Orlando, FL
- Single Ply Roofing Industry 2007 Annual Conference, January 13th, 2007 Rancho Bernardo Inn, San Diego, CA

For those who are concerned about the business effects of the passage of the proposed legislation, how ICE actions can effect employers and what steps they should be taking to bring themselves into compliance with federal employment verification laws on September 28, Shareholder Dawn Lurie conducted

a Webinar entitled "The High Stakes of Immigration: How is the Game Played, and Who are the Players? I-9 Compliance Training and Federal and State Legislative Updates." This webinar focused on proposed immigration legislation with a particular focus on politics versus policy. Specific guidance was provided on I-9 requirements and compliance for employers, common mistakes made in the completion of Form I-9s, internal audits and the penalties for non-compliance. This webinar also discussed government audits, contractors and subcontractor issues, and what policies employers should implement to comply with federal employment verification regulations. Social security no-match letters, ICE proposed regulations and other current business issues will be discussed in our upcoming October presentation addressing I-9 compliance issues. If you are interested in more information on this webinar please contact Dawn Lurie at luried@gtlaw.com. GT regularly conducts I-9 compliance trainings, formulates in-house employment verification policies, provides hands-on and virtual webinar human resources training.

GT also wishes to congratulate Shareholder Laura Reiff who was featured on the list of Greater Washington's Legal Elite in the August 2006 issue of the Washington Smart CEO and was also named by the Legal Times as an a-list lawyer in Immigration. Laura was also recently recognized in Chambers & Partners USA Guide, an annual listing of the leading business lawyers and law firms in the world.

Consular Corner

In planning international travel, all foreign nationals must ensure that they carefully review their current immigration documentation to make sure that they have all of the appropriate travel documentation required to return to the United States. Individuals in non-immigrant status, generally must have a valid visa in their passport for that category. Advance planning can make the visa application process smooth and relatively painless. Most visa applicants will be required to have an in-person interview at a U.S. Embassy/Consulate abroad. Therefore, we suggest that the foreign national carefully review the current visa wait times for information on interview appointments availability and timelines for visa issuance at the embassy or consulate. In advance of travel, all supporting documentation should be carefully reviewed and the on-line application forms as well as fee payment instructions should be closely followed to avoid delays.

Remember, some Embassies and Consulates have significant visa appointment scheduling and issuance delays, therefore, advance planning is critical.

Immigration Seminar Update

Webinar: October 26th Immigration Compliance Seminar: "The High Stakes of Immigration: How is the game played, and who are the Players? I-9 Compliance Training and Federal and State Legislative Updates." Email: luried@gtlaw.com for registration information.

Greenberg Traurig continues its tradition of providing presentations on I-9 compliance, hot topics including contractor/subcontractor issues, PERM updates, global outbound immigration issues as well as discussions on money saving tax strategies for employees and employers. E-mail to register for our upcoming GT Webinar on I-9 Worksite Enforcement. Our seminars provide information, guidance and assistance to human resource professionals on employment verification compliance, strategies for the implementation of federal regulations and information on the penalties for failure to do so. GT also regularly convenes multi-national industry professionals for informational seminars focusing on visa matters relating to the international relocation of employees and executives to, and between, countries outside of the United States.

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The Business Immigration Observer is published by Greenberg Traurig's Business Immigration practice. Dawn M. Lurie serves as the editor. The newsletter contains information concerning trends and recent developments in immigration law and legislation analyzed and reported by immigration law professionals.

For more information on ICE, worksite enforcement operations, employer compliance and enforcement please visit
http://www.gtlaw.com/practices/immigration/compliance/index.htm

SPREAD THE WORD

The Observer serves as an invaluable resource to individuals, human resource managers and recruiters, in-house legal professionals and company executives for whom keeping up with the most current immigration information is a professional imperative.

If you have enjoyed reading this newsletter and have found useful information in it, we would greatly appreciate your help in spreading the word. You can do this by forwarding a copy to your friends and colleagues.

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