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U.S. Shifts Strategy on Illicit Work by Immigrants

Immigration authorities had bad news this week for American Apparel, the T-shirt maker based in downtown Los Angeles: About 1,800 of its employees appeared to be illegal immigrants not authorized to work in the United States. But in contrast to the high-profile raids that marked the enforcement approach of the Bush administration, no federal agents with criminal warrants stormed the company's factories and rounded up employees. Instead, the federal immigration agency sent American Apparel a written notice that it faced civil fines and would have to fire any workers confirmed to be unauthorized.

The treatment of American Apparel, which has more than 5,600 factory employees in Los Angeles alone, is the most prominent demonstration of a new strategy by the Obama administration to curb the employment of illegal immigrants by focusing on employers who hire them — and doing so in a less confrontational manner than in years past.

Unlike the approach of the Bush administration, which brought criminal charges in its final two years against many illegal immigrant workers, the new effort makes broader use of fines and other civil sanctions, federal officials said Thursday.

Federal agents will concentrate on businesses employing large numbers of workers suspected of being illegal immigrants, the officials said, and will reserve tough criminal charges mostly for employers who serially hire illegal immigrants and engage in wage and labor violations.

“These actions underscore our commitment to targeting employers that cultivate illegal work forces by knowingly hiring and exploiting illegal workers,” said Matt Chandler, a spokesman for the Department of Homeland Security .

On Wednesday, Immigration and Customs Enforcement, the federal agency known as ICE, said it had sent notices announcing audits of hiring records, like the one it conducted at American Apparel, to 652 other companies across the country. Officials said they were picking up the pace of such audits, after performing 503 of them in 2008.

The names of other companies that received notices have not been made public. American Apparel became a window into the new enforcement tactics because, as a publicly traded company, it issued a required notice on Wednesday about the hiring audit.

The Obama administration’s new approach, unveiled in April, seems to be moving away from the raids that advocates for immigrants said had split families, disrupted businesses and traumatized communities. But the outcome will still be difficult for illegal workers, who will lose their jobs and could face deportation, the advocates said.

Immigration officials have not made clear how they intend to deal with workers who are unable to prove their legal immigration status in the course of inspections, but they said there was no moratorium on deportations.

Executives at American Apparel were both relieved and dismayed after receiving the warning from the immigration agency of discrepancies in the hiring documents of about one-third of its Los Angeles work force. The company has 30 days to dispute the agency’s claims and give immigrant employees time to prove that they are authorized to work in the United States, immigration officials said. If they cannot, the company must fire them, probably within two months.

But no criminal charges were lodged against the company and no workers have been arrested, American Apparel executives and immigration officials said.

The fines followed discussions over 18 months between federal officials and American Apparel, after immigration agents first inspected the company's files in January 2008, said Peter Schey, an immigration lawyer representing the company. Mr. Schey said a raid had been averted because the company cooperated with the audit and because immigration agents had not found any labor abuses.

“There is no evidence of any exploitation of workers or violation of labor laws,” he said. “And there is not a single allegation that the company knowingly hired an undocumented worker.”

American Apparel and its outspoken chief executive, Dov Charney, have waged a campaign, emblazoned on T-shirts sold across the country, criticizing the immigration crackdown of recent years and calling on Congress to “Legalize L.A.” by granting legal status to illegal immigrants. Most garment workers in American Apparel's huge shop in Los Angeles work directly for the company, not for subcontractors, its records show. They earn at least \$10 to \$12 an hour, well above minimum wage, and receive health benefits. At a news conference last year, Mayor Antonio R. Villaraigosa of Los Angeles publicly lauded Mr. Charney for helping the city with its faltering economy by providing “the dream of a steady paycheck and good benefits for countless workers.”

While it has been no secret that American Apparel's largely Latino work force probably included many illegal immigrants, Mr. Schey said the company had been careful to meet legal hiring requirements. Many illegal immigrants use convincingly forged Social Security cards or other fake documents when seeking work.

In a statement, Mr. Charney said that many of his workers cited by the immigration agency were “responsible, hard-working employees” who had been with the company for more than a decade. Mr. Charney, an immigrant from Canada, said he hoped they would be able to prove their legal status. But because of the recession, the company said, it will not be hurt financially if it has to replace them.

Mr. Schey said the hiring audit at American Apparel had been “professionally done.” By contrast, Mr. Schey has brought more than 100 damage claims against the immigration agency on behalf of American citizens who said they were illegally arrested last year in Los Angeles in an immigration raid at a different company, Micro Solutions Enterprises.

Immigration officials, who asked not to be identified because the case is continuing, said the fines to American Apparel so far were about \$150,000.

Kelly A. Nantel, a spokeswoman for the immigration agency, said it had taken steps to limit negotiations with employers that in the past had resulted in steep reductions in fines the employers ultimately paid.

Representative Brian P. Bilbray, a California Republican who heads an immigration caucus in the House, said the amount of the fines was crucial.

“If this is a truly conscientious effort to get tough with employers to say the days are over of profiteering with illegal immigrants, that’s fine,” said Mr. Bilbray, who opposes any effort to give legal status to illegal immigrants. “But if the fine will be so low that it’s just part of doing business, there’s no deterrent.”

Angelica Salas, the executive director of the Coalition for Humane Immigrant Rights of Los Angeles, an advocacy group, said she welcomed the end to “showboat enforcement raids.” But

in the end, Ms. Salas said, “there is still enforcement of laws that are broken,” adding, “The workers will still lose their jobs.”