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Counsel's Office, White House

Fahrenkopf, Leslie - Subject Files

Stack:	Row:	Sect.:	Shelf:	Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number:	OA Number:
W	19	21	11	3	10607	23470	8786	8860

Folder Title:

Treasury - § 6103 Sharing of SS (Social Security) Info

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Email	[...Heritage] - To: Douglas Baker - From: John Mitnick	2	09/07/2007	P5;
002	Draft	[Draft Anaylsis...]	9	08/07/2007	P5;
003	Draft	[Draft Preliminary Legal...]	5	08/03/2007	P5;

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Fahrenkopf, Leslie - Subject Files

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Treasury - § 6103 Sharing of SS (Social Security) Info

FRC ID:

10607

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

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TO: FRED FIELDING
MIKE FARREN

VIA FAX

5 pages including
this page

Attached is a copy of
Judge Chesney's (N.D. Cal.) TRD
prohibiting Department of
Homeland Security and Social
Security Administration from
going forward with "No-Match"
immigration enforcement plans. Karl
Zinsmeister follows this.

W. Addington
9/2/07

CC: Shauden Coffin

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24 *Attorneys for Plaintiff AFL-CIO*

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26 UNITED STATES DISTRICT COURT
27 NORTHERN DISTRICT OF CALIFORNIA

28 AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS;
SAN FRANCISCO LABOR COUNCIL; SAN
FRANCISCO BUILDING AND CONSTRUCTION
TRADES COUNCIL; and CENTRAL LABOR
COUNCIL OF ALAMEDA COUNTY,

Plaintiffs,

v.

MICHAEL CHERTOFF, Secretary of Homeland Security;
DEPARTMENT OF HOMELAND SECURITY;
JULIE MYERS, Assistant Secretary of Homeland
Security; U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; MICHAEL ASTRUE, Commissioner
of Social Security; and SOCIAL SECURITY
ADMINISTRATION,

Defendants.

RECEIVED
OCT 29 PM 1:14
RICHARD H. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

CRB

Case No. 07-44721

[PROPOSED] TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION

[PROPOSED] TRO AND ORDER TO SHOW CAUSE RE: PI, Case No.

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*Attorneys for Plaintiffs San Francisco Labor Council,
San Francisco Building and Construction Trades Council,
and Central Labor Council of Alameda County*

[PROPOSED] TRO AND ORDER TO SHOW CAUSE RE: PI, Case No. _____

1 Plaintiffs' application for (i) a Temporary Restraining Order, and (ii) an Order to Show
2 Cause why a preliminary injunction should not issue came before this Court for consideration on
3 August 31, 2007. Upon consideration of the application, and for good cause shown,

4 IT IS HEREBY ORDERED as follows:

5 Temporary Restraining Order

6 *raised serious questions as to whether*
The Court finds that Plaintiffs have ~~demonstrated a likelihood of success on the merits of~~
7 ~~their claims that~~ the new Department of Homeland Security rule is inconsistent with statute and
8 beyond the statutory authority of the Department of Homeland Security and the Social Security
9 Administration. The Court also finds that Plaintiffs have demonstrated that the balance of harms
10 ~~tips sharply in favor of a stay because~~ *based on showing that they* Plaintiffs and their members would suffer irreparable harm if
11 ~~the rule is implemented while Defendants would suffer no harm from a delay in the~~ *significantly less*
12 implementation of the rule pending consideration of Plaintiffs' claims.

13 Accordingly, IT IS HEREBY ORDERED that, pending a hearing in whether a preliminary
14 injunction should issue, Defendants MICHAEL CHERTOFF, Secretary of Homeland Security;
15 DEPARTMENT OF HOMELAND SECURITY; JULIE MYERS, Assistant Secretary of Homeland
16 Security; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MICHAEL ASTRUE,
17 Commissioner of Social Security; and SOCIAL SECURITY ADMINISTRATION, and their
18 officers, agents, servants, employees, and attorneys, and upon those persons in active concert or
19 participation with them, are HEREBY ENJOINED AND RESTRAINED from giving any effect to
20 or otherwise taking any action to implement the Final Rule adopted by the Department of Homeland
21 Security entitled "Safe-Harbor Procedures for Employers Who Receive a No-Match Letter" that was
22 published at 77 Fed. Reg. 45611 (Aug. 15, 2007), including by mailing or otherwise causing to be
23 sent to employers the Social Security Administration no-match letter packets that include the
24 Department of Homeland Security guidance letter concerning the Final Rule.

25 Order to Show Cause

26 Defendants are ordered to show cause before this Court why a preliminary injunction should
27 not issue enjoining Defendants from giving effect to or otherwise taking any action to enforce or
28 implement the Final Rule adopted by the Department of Homeland Security entitled "Safe-Harbor

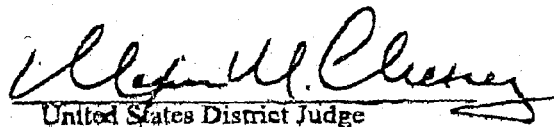
[PROPOSED] TRO AND ORDER TO SHOW CAUSE RE: Pl. Case No. _____

Procedures for Employers Who Receive a No-Match Letter" that was published at 77 Fed. Reg. 45611 (Aug. 15, 2007).

The hearing on the order to show cause will be held on October 1, 2007, at 2:30 p.m..
Plaintiff's motion for preliminary injunction shall be filed and served by September 11, 2007.
Defendants' opposition papers shall be filed and served on September 18, 2007, and Plaintiffs' reply papers shall be filed and served on September 25, 2007.

SO ORDERED.

Dated: 9/31/07


United States District Judge

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Fahrenkopf, Leslie - Subject Files

FOLDER TITLE:

Treasury - § 6103 Sharing of SS (Social Security) Info

FRC ID:

10607

OA Num.:

8860

NARA Num.:

8786

FOIA IDs and Segments:

2016-0422-F

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Fahrenkopf, Leslie

From: Farren, J. Michael
Sent: Thursday, August 09, 2007 8:21 AM
To: 'Coldebella, Gus'; Mitnick, John M.
Cc: Fahrenkopf, Leslie
Subject: RE: No-Match Rule

Gus, I appreciate the clarification. Some of the press reports were not particularly clear.

MIKE

From: Coldebella, Gus [mailto:Gus.Coldebella@dhs.gov]
Sent: Thursday, August 09, 2007 8:06 AM
To: Farren, J. Michael; Mitnick, John M.
Subject: No-Match Rule

Mike,

I spoke with John this morning, and he told me you had some questions about the No-Match regulation. As a preliminary matter, this is not related to the 6103 issue we're currently working out with Treasury. Instead, it prescribes what steps an employer must take when it receives a no-match letter from SSA. Currently, no such requirements exist. Here's a quick summary:

The ICE "no-match" regulation provides employers with clear steps they can take when the Social Security Administration sends a letter notifying the employer that one or more of its employees' social security numbers do not match the names provided on their W-2 forms. The procedures, if followed, provide employers with a safe harbor against ICE concluding that the employer had constructive knowledge of employing unauthorized workers. The procedural steps are simple, and would have the employer take the following steps: (1) check its own records within 30 days to make sure it did not have an internal clerical or other error that caused the problem; (2) ask the employee to confirm that the employer's records are correct (i.e., have the employee check to make sure the employer has the correct spelling of his name and social security number); (3) ask the employee to pursue the matter with SSA to clear up the problem; and (4) if not resolved within 90 days of the employer's receipt of the no-match letter, the employer could have the employee submit additional documents under the same I-9 procedures that employers use when hiring individuals. In reviewing those documents, however, the employers are told that they should not accept documents that contain the social security number that is the subject of the mis-match, and they should not accept documents without a photograph for establishing identity. If an employer does not complete these steps, they must choose between (1) taking actions to terminate the employment, or (2) face the risk that ICE may find that the employer had constructive knowledge that the employee was an unauthorized alien.

Gus P. Coldebella
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 U.S. Department of Homeland Security
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 (202) 309-3582 (mobile)
 (202) 282-8915 (fax)

Confidential Assistant: Ms. Elyse Braner, (202) 282-9673

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8/9/2007

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