

STATE OF NORTH CAROLINA)
 COUNTY OF WAKE)
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)
)
 COMMISSIONER OF LABOR OF)
 THE STATE OF NORTH CAROLINA)
 JOSH DOBSON)
)
 Complainant)
)
 v.)
Eastern 6-29-2021)
)
 Sullivan Easter, Inc.)
 dba Sullivan Easter)
 P.O. Box 1000)
 Raleigh, NC 27602)
)
 Respondent)

FILE NO
113932

ORDER

THIS CAUSE came on for telephonic hearing before Kisha Holmes, the undersigned Hearing Officer designated by the Commissioner of Labor of the State of North Carolina in accordance with 13 NCAC 12.0905 on May 12, 2021, for the Respondent's alleged failure to comply with the provisions of Chapter 64, Article 2 of the North Carolina General Statutes entitled "Verification of Work Authorization," commonly known as "E-Verify".

The Complainant was present through Angela Richardson, Eastern District Supervisor. The Respondent appeared via telephone through its Counsel, Attorney Edward Schneck.

Pursuant to N.C. General Statute 64-30(l), the Commissioner shall hold a hearing if the investigation reveals that a complaint is not false and frivolous to determine if a violation of N.C. Gen. Stat. 64-26 has occurred, and if appropriate, impose civil penalties in accordance with the Chapter 64, Article 2 of the North Carolina General Statutes.

Based upon the facts and evidence presented at the hearing, and with the due consideration of the contention of both parties, the undersigned Hearing Officer hereby makes the following Findings of Fact and Conclusions of Law and enters an Order accordingly:

FINDINGS OF FACT

- 1) Complainant, Commissioner of Labor for the State of North Carolina hereinafter Commissioner) is charged by law with the responsibility for enforcement of the provisions of the Verification of Work Authorization Act, Chapter 54, Article 2 of the North Carolina General Statutes, (the "Act") as well as regulations adopted pursuant thereto.
- 2) Respondent, Sullivan Easter, Inc. dba Sullivan Easter, (hereafter Respondent) is a North Carolina corporation doing business in Raleigh, North Carolina. At all times relevant to this matter, Respondent was in the business of operating a construction company called Sullivan Easter, Inc in Raleigh, North Carolina.

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- 3) Respondent is an employer within the meaning of N.C. General Statute 64-25(4) and all of Respondent's employees referred to in the Complaint are "employees" within the meaning of NC General Statute 94-25(3).
- 4) Respondent at all times relevant to this matter, employed 25 or more employees in North Carolina, as employee is defined in NC General Statute 94-25(3).
- 5) On or about February 18, 2020, Complainant received an anonymous complaint that alleged that Respondent was not verifying the work authorization of its employees as required by chapter 64, Article 2 of the North Carolina General Statutes.
- 6) Prior to February 18, 2020, the Complainant had not received a complaint against Respondent.
- 7) An Investigator for Complainant investigated the allegation and concluded that the complaint was not false and frivolous.
- 8) A telephone hearing was held on May 12, 2021 to review the investigative case file resulting for the complaint pursuant to NC General Statute 64-30 and 13 NCAC 12.0905.
- 9) Evidence provided by the by the Respondent to the Investigator prior to the hearing showed that, Respondent previously enrolled in the "E-Verify" program prior to February 18, 2020.
- 10) Evidence provided by the Respondent to the Investigator and to the Hearing Officer, prior to the hearing, showed that the Respondent conducted an E-Verify evaluation on some but not all employees within 3 days of hire.

Based upon the foregoing FINDINGS OF FACT, the undersigned Hearing Officer makes the following:

CONCLUSIONS OF LAW

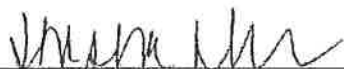
- 1) The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Order.
- 2) The Respondent is subject to the jurisdiction and provisions of this Act.
- 3) Respondent is required to verify the work authorization of its employees under Article 2 of Chapter 64 of the North Carolina General Statutes.
- 4) The complaint filed against Respondent on February 18, 2020 was not false and frivolous.
- 5) At the time the complaint was filed, Respondent was enrolled in the "E-Verify" system but was not verifying the work authorization of all of its employees within three employer business days, and therefore was not entitled to the presumption of compliance provided in 13 NCAC 12.0903(a).
- 6) At the time of the hearing, in this matter, Respondent was enrolled in the E-Verify system and had verified the work authorization of the employees for the time period in question, utilizing the "E-Verify" system.

- 7) Because of the verification of work authorization that occurred between the time period the complaint was filed and the hearing, Respondent is now in compliance with the E-Verify requirements for employees for the time period in question.

BASED UPON the foregoing Findings of Fact and Conclusions of Lao, IT IS ORDERED as follows:

- 1) Respondent is currently in compliance with the requirements of Article 2, Chapter 64 of the North Carolina General Statutes for the time period in question.
- 2) Respondent is hereby ordered to file the enclosed sworn affidavit (Exhibit B) within three (3) business days of this Order.

This the 23 day of June, 2021.



Kisha Holmes
Administrator
Hearing Officer

CERTIFICATE OF SERVICE

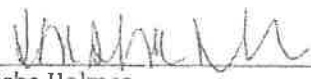
I HEREBY CERTIFY that I have this date served a copy of the foregoing ORDER upon:

Eastern
Sullivan ~~Easter~~ Inc.
~~Db~~a Sullivan Easter
P.O. Box 1000
Raleigh, NC 27602

JAX 6-29-2021

by depositing a copy of the same in the United States Mail, Certified Mail, postage prepaid at Raleigh, North Carolina.

THIS THE 23 DAY OF June, 2021.



Kisha Holmes
Administrator
Hearing Officer
North Carolina Department of Labor
1101 Mail Service Center
Raleigh, North Carolina 27699-1101
919-707-7980

STATE OF NORTH CAROLINA)
)
COUNTY OF Wake)
)

SWORN AFFIDAVIT
INVESTIGATION 113932

1. I am Jeffrey J. Sullivan, and I hold the position of Sec. / Treas. with Sullivan Eastern 6-29-2021 ~~Inc. Dba Sullivan Easter~~ (Respondent) in the North Carolina Department of Labor Investigation 113932.
2. I certify that Respondent was required to enroll in E-Verify under Chapter 64, Article 2 of the North Carolina General Statutes.
3. I certify that Respondent enrolled in E-Verify effective 7-20-2013.
4. Following enrollment in E-Verify, an E-Verify check was requested on all employees working for the time period of this investigation.
5. Pursuant to the provisions of 28 U.S.C 1746, I state under penalty of perjury that the foregoing is true and correct.

This the 29th day of June, 2021



Jeffrey J. Sullivan
Jeffrey J. Sullivan Sec/Treas