

STATE OF NORTH CAROLINA
COUNTY OF WAKE

COMMISSION OF LABOR
OF THE STATE OF NORTH
CAROLINA,
Cherie Berry
Complainant,

v.

Wei Mei Zhang
3303 Bragg Blvd., #244
Fayetteville, NC. 28303

Respondent.

FILE NO.
89295

ORDER
RECEIVED

JUN 04 2014

Dept. of Labor
Wage & Hour Bureau

THIS CAUSE came before Valentine Eucare III, the undersigned Hearing Officer designated by the Commissioner of Labor of the State of North Carolina in accordance with 13 NCAC 12 .0905, for the Respondent's alleged failure to comply with the provisions of Chapter 64, Article 2 of the North Carolina General Statutes, "Verification of Work Authorization."

Pursuant to N.C. Gen. Stat. §64-30(1), the Commissioner shall hold a hearing if 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 Chapter 64, Article 2 of the North Carolina General Statutes.

Based upon the facts and evidence presented, the undersigned Hearing Officer hereby makes the following:

FINDINGS OF FACT

(1) That Wei Mei Zhang (hereinafter "Respondent") meets the definition of an "employer" in that Respondent is a "person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State." Thus, it is hereby found that the Respondent is an employer in the State of North Carolina.

(2) That the Respondent employs thirty eight employees who provide services or labor for the Respondent in North Carolina for wages or other remuneration.

(3) That a hearing was held on May 5, 2014 to review the investigative case file resulting from a complaint filed on November 11, 2013 against the Respondent for failure to verify the work authorization of certain employees in accordance with N.C. Gen. Stat. §64-26.

(4) **(Select One)**

That the Respondent hired and did not verify the work authorization of the following employees in accordance with N.C. Gen. Stat. §64-26 (attach additional sheet, if necessary):

<u>Employee Name</u>	<u>Date of Hire</u>
Vanessa Bonilla	12/15/2013
Xin Jin Zheng	12/05/2013
Jian Yan Xie	08/15/2013

OR

No evidence was presented that the Respondent failed to comply with the requirements of Chapter 64, Article 2 of the North Carolina General Statutes, "Verification of Work Authorization."

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

CONCLUSIONS OF LAW

That a violation of N.C. Gen. Stat. §64-26(a) **does not** exist, and the complaint dated [Click here to enter text.](#) against the Respondent is hereby dismissed.

Written evidence of the dismissal shall be entered into the official case file, the file shall be closed, and no further action shall be taken.

OR

That a violation of N.C. Gen. Stat. §64-26 has occurred in that the Respondent failed to verify the work authorization of one or more employees through E-Verify (attach additional sheet, if necessary), to wit:

Employee Name

Date of Hire

Vanessa Bonilla

12/15/2013

Xin Jin Zheng

12/05/2013

Jian Yan Xie

08/15/2013

Now, therefore, it is hereby **ORDERED**:

(1) That the Respondent is hereby ordered to file, **within three (3) business days after the date of issuance of this Order**, a signed sworn affidavit with the N.C. Department of Labor/E-Verify Administrator at 1101 Mail Service Center, Raleigh, North Carolina 27699-1101 in accordance with and as required by:

N.C. Gen. Stat. §64-31 which states: “the Commissioner shall order the employer to file a signed sworn affidavit with the Commissioner within three business days after the order issued pursuant to this subsection is issued. The affidavit shall state with specificity that the employer has, after consultation with the employee, requested a verification of work authorization through E-Verify.”

OR

13 NCAC 12 .0905(b)(3)(B) which states: “[i]f the employee is no longer employed by the employer and it is found during the investigation that the employer did not verify the employee's work authorization through the use of E-Verify at any time, the hearing officer shall [o]rder the employer to file, within three business days, a signed sworn affidavit stating that the employee is no longer employed by the employer, setting forth the employee's beginning and ending dates of employment, and acknowledging that the employer did not verify the employee's work authorization through the use of E-Verify during the period of employment or otherwise.”

(2) That the Respondent is hereby ordered to pay the following applicable civil penalty within fifteen (15) business days of the date of receipt of this Order:

1st violation - No civil penalty due

2nd violation - One thousand dollars (\$1,000.00), regardless of the number of required employee verifications the Respondent failed to make.

3rd or subsequent violations -- Two thousand dollars (\$2,000.00) for each required employee verification the employer failed to make.

STATE OF NORTH CAROLINA
COUNTY OF WAKE

FILE NO.
89295

COMMISSION OF LABOR
OF THE STATE OF NORTH CAROLINA,
Cherie Berry

AFFIDAVIT OF
Wei Mei Zhang

Complainant

v.

Wei Mei Zhang

Respondent.

This Affidavit is filed in accordance with the requirements of:

(Select One)

N.C. Gen. Stat. §64-31(a) and 13 NCAC 12 .0905

OR

13 NCAC 12 .0905(b)(3)(B)

Wei Mei Zhang ("Affiant"), after first being duly sworn, deposes and says:

1. Affiant is at least eighteen (18) years of age and is of sufficient discretion and competency to attest to the facts contained in this affidavit.
2. Affiant is presently employed as the President of Zhang's Fayetteville Inc. (hereinafter "Respondent") and has served in that capacity for the past three years.
3. Affiant acknowledges that the Respondent meets the definition of an "employer" in that Respondent is a "person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State."
4. As of this date, Affiant is aware that N.C. Gen. Stat. § 64, Article 2 requires that employers must, after hiring an employee to work in the United States, verify the work authorization of the employee through E-Verify in accordance with N.C. Gen. Stat. §64-26.
5. Affiant attests as follows:
 - (a) That on April 8, 2014, Respondent employed thirty eight employees in the State of North Carolina.
 - (b) That a violation of N.C. Gen. Stat. § 64-26 has occurred.

- (c) That Respondent hired and did not verify the work authorization of the following employees in accordance with N.C. Gen. Stat. § 64-26:

<u>Employee Name</u>	<u>Date of Hire</u>
Vanessa Bonilla	12/15/2013
Xin Jin Zheng	12/05/2013
Jian Yan Xie	08/15/2013

6. (Select One)

(a) That the employee(s) in question:

is/are currently employed by the Respondent; or

was discharged after commencement of investigation, but prior to hearing, of this matter;

and that the Respondent, after consultation with the employee(s), requested a verification of work authorization for the employee(s) through E-Verify prior to hearing on this matter.

(b) That the employee(s) in question are currently employed by the Respondent, and that the Respondent, after consultation with the employee(s), requested a verification of work authorization for the employee(s) in question through E-Verify after hearing of this matter; or

(c) That the employee(s) in question are no longer employed by the Respondent, and that the Respondent did not request verification of work authorization for the employee(s) in question through E-Verify at any time during the employee(s) period of employment or otherwise. The former employee(s) name(s), and respective beginning/ending dates of employment with the Respondent are as follows (attach additional sheet if necessary):

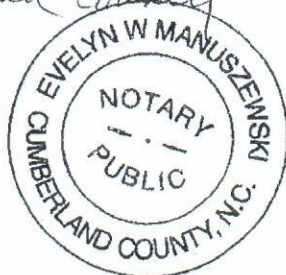
<u>Name</u>	<u>Beginning Date</u>	<u>Ending Date</u>
Vanessa Bonilla	12/15/2013	5/7/2014
Xin Jin Zheng	12/05/2013	12/31/2013
Jian Yan Xie	08/15/2013	09/26/2013

Sworn to and subscribed before me,

This 2 day of June 2014

North Carolina
Cumberland County

[SEAL]



Allen Mei ZF
Respondent

Evelyn W. Manuszewski
Notary Public

My Commission Expires: November 9, 2018