

**NAEA** National Association for the Employment of Americans  
AMERICAN JOBS FOR THE AMERICAN PEOPLE

**TO:**

<p><b>Regional Office</b> Martin Rios ALC Certifying Officer U.S. Dept of Labor Employment and Training Admin. 71 Stevenson Street, Suite 820 P.O. Box 193767 San Francisco, CA 94119 (415) 975-4601 <b>(415) 975-4660 FAX</b></p>	<p><b>Permanent Labor</b> Employment Development Department Foreign Labor Certification Office P.O. Box 269070 Sacramento, CA 95826-9070 (916) 464-3400 <b>(916) 464-3467 FAX</b>  9815-B Goethe Road Sacramento, CA 95827</p>
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<http://www.workforcesecurity.doleta.gov/foreign/contacts.asp>

via Fax

bcc: Media and Legislators

**Online:**

[www.naea.us/docs/foreign\\_labor\\_letter1.html](http://www.naea.us/docs/foreign_labor_letter1.html)

[www.naea.us/docs/foreign\\_labor\\_letter1.pdf](http://www.naea.us/docs/foreign_labor_letter1.pdf)

Sept 20, 2003

**Subject: Allege that DOL is defrauding Americans out of their jobs**

Dear Foreign Labor Certification,

I am concerned that your certification policies are resulting in fake job ads in the Sacramento Bee. This is fraud on American Workers and could be viewed as a conspiracy between DOL and the Bee to deprive U.S. workers of jobs. Please review the facts I've uncovered in **Appendix A** – these companies are running job ads while their job websites indicate no such openings, and they happen to have H-1B employees.

I'm further concerned that DOL Chief visited California in July, and, in a private meeting with immigration attorneys representing foreign workers, *both with no one representing the interests of U.S. workers*, ordered your offices to continue granting permanent RIR certifications based on these fake ads. See details in **Appendix B**.

Why is this charade continuing when the number of tech jobs in the U.S. has dwindled by 12 percent in the past two years?

<http://www.eweek.com/article2/0,4149,1390957,00.asp?kc=EWNWS112003DTX1K0000599>

Many of my former coworkers are unemployed. Hundreds of such workers have placed their testimonials at this webpage:

[www.prestwood.com/h1b/](http://www.prestwood.com/h1b/)

In addition to the outrage of unemployed Americans responding in good faith to bogus ads, the ads present an additional problem for divorced parents. In family court, judges have the discretion to impute income to "earning capacity," and often consider classified ads evidence of employment opportunities. But most judges are not aware that many ads are fake - run solely to present to DOL for RIR purposes.

#### REQUESTS

- 1) Will your office please provide an estimate of how many employers are running classified ads for the sake of RIR applications?
- 2) Will your office confirm for the media that DOL is still granting permanent labor certifications based on RIR – with no requirement that qualified U.S. workers be hired if they are available?
- 3) Will your office name some of the major employers that have RIR applications pending?
- 4) What were the findings by your local offices that Chief Bill Carlson overruled?

Sincerely,

Mr. Kim Berry  
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## Appendix A – Fake Job Ads

From: Kim Berry  
Sent: Sunday, November 16, 2003 4:13 PM  
To: [rrodriguez@sacbee.com](mailto:rrodriguez@sacbee.com) - editor  
Cc: (undisclosed)  
Subject: 11/16 Sacramento Bee has fraudulent job ads

Dear Sacramento Bee,

Note that Tony Marcano's (Ombudsman) column today is titled "The conduct of corporations needs press scrutiny."

<http://www.sacbee.com/content/news/columns/ombudsman/>

In this spirit, will you ask Cypress, R-Systems, Healthnet, Henwood, and Synergex "ARE YOU RUNNING FAKE JOB ADS?" Isn't this in the "public interest" - esp to unemployed tech workers?

In July I alleged that **Cypress Semiconductor** was running fake job ads in the Sacramento Bee. You ignored my correspondence:

<http://www.naea.us/docs/beefakejobads.html> (bottom of page)

On Sunday Nov 16th the same ad ran again. Oddly the Cypress jobsearch website does not even list the Sacramento region as a search choice - much less contain these listings.

<http://jobsearch.cypress.newjobs.com/>

The **Synergex** ad is also fraudulent. Their website lists NO JOB OPENINGS:

<http://www.synergex.com/Company/jobs/ViewAllOpenings.asp>

And they have an H-1b visa expiring this week - issued 11/2000:

[http://www.h1b.info/lca\\_job\\_details.php?oid=a71902&page=1&sort=&name=SYNERGEX+INTERNATIONAL+CORP&company=synergex&city=&state=&year=ALL](http://www.h1b.info/lca_job_details.php?oid=a71902&page=1&sort=&name=SYNERGEX+INTERNATIONAL+CORP&company=synergex&city=&state=&year=ALL)

The Bee was on notice that these ads were fraudulent. Yet you are still running them. This is fraud upon your readers and the jobseekers within the Sacramento region.

Can you please investigate this, and take a position against running fraudulent ads -- or at least include a disclaimer that your ads may not represent actual openings?

## Appendix B – DOL Chief conspires with immigration attys

From: Kim Berry  
Sent: Friday, October 10, 2003 3:43 PM  
To: (undisclosed)  
**Subject: DOL chief overrules regional offices - orders tech jobs given to immigrants**

Media,

The media has never reported on the DOL "RIR" program. An overview and link to DOL RIR rules is here:

<http://www.naea.us/legislation.asp>

On July 10, 2003, DOL Chief of Foreign Labor Certification Bill Carlson wrote in response to 125 displaced IT workers:

"As indicated in our previous letter to you, the Department has recommended substantial reform of the H-1 B program for temporary foreign professionals, including requiring employers to make bona fide efforts to recruit and retain U.S. workers before hiring temporary foreign workers, and prohibiting the displacement of U.S. workers with temporary foreign workers." (page 2)

The letters link from this page:

<http://www.naea.us/documents.asp> (see the testimonials in the original letter)

RIR permits, at the discretion of DOL, for employers to obtain permanent residency for their foreign workers by simply running a few help wanted ads. But if the DOL finds there is not a labor shortage within the skill, they are not suppose to honor the RIR. In response to the high unemployment in California, Local labor certification offices rejected several hundred such applications.

Just six days later on July 16th, at the request of immigration law firm <http://www.jackson-hertogs.com/>, Carlson traveled to California and met with the attorneys representing American Immigration Lawyers Association (AILA) - which exclusively represent their interests, and the interests of immigrants. NO REPRESENTATIVES FOR U.S. WORKERS' INTERESTS WERE PRESENT.

Carlson then ordered an across the board freeze on all remands of RIR to EDD - in effect granting these several hundred jobs to the foreign workers - excluding all qualified U.S. workers who had applied for these jobs.

A "remand" merely requires the employer to conduct further recruitment that will consist of three days of advertising in the appropriate newspaper and a 30-day job listing on the EDD placement system. If they truly hoped to fill their worker shortage, why would they

object?

DOL blatantly violated the substantial interests of U.S. citizens, in favor of foreigners, by depriving U.S. workers from due process representation at this meeting in which their constitutional interests were at stake

RIR is a conspiracy between government and corporations to deprive Americans of jobs. The companies run ads with the intent that they not result in any applicants - because the jobs are already filled by nonimmigrant workers that they hope to retain. (There are 500,000 such workers in the U.S., so these fake job ads are a huge problem.)

## REFERENCES

Summary by law firm that arranged and conducted the meeting with DOL:

<http://www.jackson-hertogs.com/news/2003/0721.htm>

<http://www.morganlewis.com/RIR.pdf>

**INSTRUCTIONS ON HOW TO DRAFT BOGUS JOB ADS – All resumes received are to go in the trash. The Ad is crafted to match the foreign worker and exclude U.S. workers.**

<http://www.usavisanow.com/lcgreencard-rir.html>

DOL puts more effort into clearing backlog of foreign work visas than on protecting U.S. workers from displacement:

<http://www.usavisanow.com/10-29-03.html>

**RIR Info - p.4 "con" - the bogus ads "will result in many applicants"**

<http://www.bakerlawcorp.com/Newsletter/2003-August%20Vol-1%20Issue-6.pdf>