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‘E-raid’ leaves workers jobless

Overhill Farms, a major food-processing plant in the L.A. area, terminates more than 200 employees after an IRS audit finds that they had provided ‘invalid or fraudulent’ Social Security numbers.

By Patrick J. McDonnell

No immigration agents descended on Overhill Farms, a major food-processing plant in Vernon. No one was arrested or deported. There were no frantic scenes of desperate workers fleeing *la migra* through the gritty streets of the industrial suburb southeast of downtown Los Angeles.

For more than 200 Overhill workers, however, the effect was devastating: All lost steady jobs last month and now find themselves in a precarious employment market, without severance pay or medical insurance. It wasn't a hot tip or an undercover informant that helped seal their fates, but a computer check of Social Security numbers.

“A desktop raid” is how the workers’ representative, John M. Grant, vice president of Local 770 of the United Food and Commercial Workers International Union, described the scenario.

Overhill, a \$200-million-a-year company that provides frozen meals for clients such as American Airlines, Panda Express, Safeway and Jenny Craig, says it had no choice: An Internal Revenue Service audit found that 260 workers had provided “invalid or fraudulent” Social Security numbers. The government took no action against the workers. But Overhill did: All of the employees were fired May 31.

The dispute underscores some of the complex issues facing President Obama as he tries to make good on his pledge to overhaul the nation’s “broken” immigration system. Like agriculture, the food-processing and preparation sectors rely heavily on immigrant labor, much of it illegal.

The White House has already scaled back the Bush administration’s controversial practice of work-site raids. Homeland Security Secretary Janet

Napolitano has vowed to shift the emphasis to employers who hire illegal workers. Audits of employers' records are an essential tool in such cases.

But the Overhill case illustrates how desktop raids can ravage immigrant families, even without arrests and deportation. Employers facing stiff fines and potential prison terms for hiring illegal immigrants may decide to fire employees who have suspect paperwork.

“We killed ourselves on the assembly lines for years, many of us have injuries from repetitive motion,” said Bohemia Agustiano, 38, a mother of four from Huntington Park. “Now we’re worth nothing. We’re out on the streets. This is unjust, no one should be treated this way.”

Overhill says it gave the workers 30 days to correct the problem with the IRS and provide the company with verification, but none did so.

“This is not something the company planned to do, it’s not something the company initiated and it’s not something that benefited the company,” said Alexander Auerbach, a spokesman for Overhill, which dismissed about a quarter of its 1,000-plus workforce. “Quite the contrary. We lost very good, very loyal employees.”

Overhill, whose workforce is largely Latino, says it has no idea of the legal status of the fired employees. No one has formally accused them of being illegal immigrants. Still, the company argues that it risked potential criminal liability under tax and immigration laws if it continued to employ them after the IRS audit.

“Based on the advice of three different law firms, the company’s belief was that it was legally compelled to terminate these employees,” Auerbach said. Overhill has already rehired workers for most positions.

But the union says Overhill responded rashly. “I think the company acted hastily and unnecessarily,” said Peter Schey, a Los Angeles lawyer who represented the union. “Legally, there was nothing that compelled these terminations.”

Immigrant advocates who applaud the Obama administration’s determination to shift the work-site enforcement focus to employers acknowledge that such an approach still leaves workers vulnerable to losing

their jobs.

“At the end of the day, it’s the employees or the undocumented workers who are still walking around with a bull’s-eye on their backs,” said Angela Kelley, vice president for immigration policy at the Center for American Progress, a Washington think tank.

“They either get directly caught up in a raid, or they get caught in a ricochet attack by an employer acting preemptively to let them go.”

IRS officials declined to comment on the case, citing privacy concerns. Although the federal agency regularly alerts employers about workers with incorrect Social Security or tax identification numbers, it does not mandate that those employees be fired.

“We do not advise employers to fire or hire anybody,” said Larry Wright, an IRS spokesman.

All of Overhill’s dismissed factory hands were hired before the introduction of the Department of Homeland Security’s so-called E-Verify system, which allows employers to confirm the legal working status of new hires electronically, verifying Social Security numbers and other data. The program was designed as a weapon against the vast trade in fraudulent and stolen Social Security numbers. Overhill is now using the system for new hires.

Six of the company’s fired workers interviewed at a protest outside the Vernon plant last week insisted that their Social Security numbers were legitimate.

“My Social Security number was good all these years, why is it suddenly no good now?” asked Eva Macias, a 19-year veteran of Overhill Farms. “We left our youth in that plant.”

The ousted workers held signs proclaiming that they were not “disposable.” Passing truckers honked their horns in solidarity in a heavily industrialized zone where Latino immigrants constitute much of the labor force. Employees in white laboratory coats and hairnets observed from the factory grounds during their breaks from the assembly line, where they fill trays of frozen food that are shipped to supermarkets and fast-food outlets.

One after another, the ex-workers lamented losing a steady job, even if it paid only \$10 an hour, the average salary. All spoke of bleak prospects for finding alternative work in a shrinking economy.

Many have been in the United States for a decade or more and have U.S. - born children. They see no option of returning to Mexico and its enduring lack of opportunity and social mobility. They worry about missing rent payments, being unable to pay medical bills and having no money for food.

“I’m already a month behind on the rent,” said Gabriel Cruz, 28, a father of two from Compton. “It’s not an easy time to find work right now.”

Overhill is a rare union shop in an overwhelmingly nonunion industry, but that hasn’t made much difference for the fired workers. The plant’s union has demanded that an independent arbitrator hear their case. But such a session can take months to arrange.

“We’re talking here about hundreds of families that have been denied a gainful wage, denied medical care,” said Grant, the union official. “This basically tears apart an entire community.”