


How to Make Identity Theft Worse

IRS Audit Launches
Emerita de Jesus Into Fight
To Get Her Name Back

By MIRIAM JORDAN
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Los Angeles

Audits from the Internal Revenue Service are never welcome. But when Emerita de Jesus received a letter for failing to report earnings at a North Carolina poultry plant, it had a particularly unpleasant twist: The California housewife had never worked at the facility.

Instead, a Mexican worker there had used Ms. de Jesus' name and Social Security number to get hired. The situation caused years of grief for Ms. de Jesus, who fought a protracted battle beginning in 2003 to clear her name with creditors, the IRS and the poultry plant, House of Raeford Farms Inc. The case, which was finally solved a few months ago, isn't isolated. It is an example of an unexpected consequence of the government's crackdown on undocumented workers: a surge in identity theft.



Scott Menchin

About eight million illegal immigrants are in the U.S. work force. Lacking documents, the workers have traditionally used phony names and Social Security numbers to gain employment. But in recent years, technology has made it increasingly difficult for counterfeit documents to pass muster. The use of an electronic system that checks a person's work eligibility, called E-Verify, is now mandatory for employers in several states, and President Bush signed an order recently making it obligatory for companies that do business with the government.

Desperate to get a job, undocumented immigrants increasingly are acquiring the bona fide documents of legal residents or citizens of the U.S. But unlike traditional identity thieves, such as the multinational ring that was charged earlier this week with stealing and selling millions of credit cards, these immigrants don't usually aim to steal a good name to run up huge bills. They typically use the acquired identities to elude E-Verify and get a job.

So far this year, about 900 illegal immigrants arrested in work-site raids have been charged with crimes, mainly identity theft, twice the number last year. Most victims of identity theft practiced by undocumented immigrants never realize it, because the immigrants don't loot their victim's accounts.

"When you make it harder for illegal immigrants to get work, you force them to take riskier measures," says Marcy Forman, head of investigations for U.S. Immigration and Customs Enforcement, an arm of the Department of Homeland Security. Vendors charge up to \$1,000 for a set of IDs, the ICE official says.

The same pressure that is mounting on immigrants also has cornered employers. Federal authorities say it is fair to expect a company to ensure that documents presented by a job applicant are legitimate. Says an ICE spokeswoman: "We expect them to ensure individuals they hire are legal to the best of their knowledge."

Employers counter that antidiscrimination laws prevent them from scrutinizing documents that appear to be authentic. The government has stepped up raids of companies believed to be knowingly hiring illegal immigrants. And some company administrators have faced criminal charges related to facilitating the acquisition of another individual's identity for hiring purposes. Bob Johnson, chief executive of House of Raeford poultry plant, said: "We're put in a situation where we have to be a detective."

But most investigative work fell upon Ms. de Jesus. Though arguably less nefarious than conventional forms of identity theft, it exacted no less a toll as she was exposed to tax liabilities and ultimately financial problems.

After the native of Honduras and legal U.S. resident received the IRS letter in mid-2003 concerning \$18,000 in unreported income, Ms. de Jesus hired a lawyer, Robert Fong. He contacted the human-resources department at House of Raeford, a federal contractor based in Raeford, N.C. He asked the company to stop an employee from using his client's identity. In a response dated Aug. 13, the company said that "the only way to help with this situation is if the IRS sends us a letter, then we can investigate."

Asked to comment, an IRS official said the agency doesn't do so on specific cases. The IRS is precluded by federal laws governing confidentiality to contact the employer of an identity thief.

Ms. de Jesus' husband, E. Elsharkawy thought he did the right thing to clear the matter: He filed a report with the Los Angeles police department, lodged a complaint with the Federal Trade Commission and contacted three credit bureaus. "I made a lot of paper copies and sent big letters," he recalls. After several telephonic and written exchanges with the IRS, he says, "I thought we were finished."

In 2004, however, his wife received another letter from the IRS regarding yet another year's income that hadn't been reported. The couple hired a private detective who confirmed a woman continued to work at the House of Raeford under Ms. de Jesus' name. "We contacted 50 senators, 30 government departments and two governors," says Ms. de Jesus, who declined to be interviewed but provided a written statement. "The system did not work."

After a grueling runaround from officials, in April 2005, Los Angeles police chief William Bratton wrote to Ms. de Jesus that a 20-year-old Mexican named Laura Soriano of Raeford, N.C. had been arrested and charged with "fraud -- impersonation," according to the incident report.

Ms. Soriano had been released on \$1,000 bond. She jumped bail and still hasn't been located, according to court records.

Though Ms. Soriano allegedly used Ms. de Jesus' identity for years, only around the time of Ms. Soriano's disappearance did Ms. de Jesus begin receiving calls from collection agencies for medical, furniture and cellphone charges. They called as many as eight times a day, Mr. Elsharkawy recalls. "My wife would jump every time the phone rang. In the middle of the night, she would wake up afraid and just sit up in bed."

About 53% of all Latinos who were victims of identity fraud in 2007 reported that the fraud involved opening an account in another person's name, according to Javelin Strategy & Research, a financial-services research firm that tracks identity theft. Latinos are 1.5 times more likely to have an account fraudulently opened in their name than are fraud victims of other ethnicities.

In Nov. 2005, lawyers Charles Murray and Mr. Fong filed a lawsuit against House of Raeford in Los Angeles County Superior Court seeking more than \$2 million in punitive damages and \$232,100 for emotional distress, pain and medical expenses for Ms. de Jesus, who had begun attending group therapy and was prescribed Prozac and Trazadone. Mr. Murray says that he served the lawsuit to House of Raeford by certified mail to its corporate address but that the company didn't respond.

House of Raeford's Mr. Johnson says the company never responded because of an "administrative oversight on our part."

June 22, 2006, the Los Angeles court held a default hearing in which Ms. de Jesus testified. In court transcripts, she speaks haltingly and breaks down as she recounts how the identity theft had affected her health and her relationship with her husband.

July 12, 2006, Judge Elizabeth Grimes ruled that the plaintiff wasn't entitled to recover punitive damages because she hadn't proven the company had acted intentionally. However, the judge awarded damages for negligence in the amount of \$232,100. The company didn't protest the judgment.

More than a year went by without any payment. In late 2007, Ms. de Jesus' lawyers began tracking House of Raeford distributors in California, winning two orders to divert revenue to Ms. de Jesus. After the second diversion of funds, for \$50,908.32, a lawyer representing House of Raeford called. May 22, 2008, House of Raeford agreed to pay Mrs. de Jesus \$196,271.61 -- the full settlement -- to close the case.

House of Raeford's Mr. Johnson says it was the first time the company was ever sued by a victim of identity theft. "We abide and live by the laws set forth in checking [job applicants'] papers," he says.

House of Raeford is under federal investigation over its hiring practices. The IRS says it has put in place new procedures to help taxpayers who are victims of identity theft, and Oct. 1 will launch a help line dedicated to such fraud.

Ms. de Jesus still hasn't recovered from her ordeal, her husband says. "The phone rings after 7 p.m., and she jumps," he says. "You see her talking to herself."

Write to Miriam Jordan at miriam.jordan@wsj.com¹

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