

UNITED STATES DEPARTMENT OF JUSTICE  
 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
 OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 2022A00053
	)	
BLACK BELT SECURITY &	)	
INVESTIGATIONS, LLC,	)	
Respondent.	)	
	)	

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Appearances: Janelle Cleary, Esq., for Complainant  
 Eldridge Hawkins, Sr., Esq., and Eldridge Hawkins, II, MBA, JD, for Respondent

ORDER ON RESPONDENT’S REPRESENTATION  
 AND RESETTING SCHEDULE FOR SETTLEMENT OFFICER PROGRAM REFERRAL

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on August 18, 2022. Complainant alleges that Respondent, Black Belt Security & Investigations, LLC, failed to prepare and/or present Forms I-9 for fifty individuals, in violation of 8 U.S.C. § 1324a(a)(1)(B).

Complainant first served its Notice of Intent to Fine Pursuant to Section 274A of the Immigration and Nationality Act by mail to Respondent on November 10, 2021. On November 15, 2021, Respondent, through Elridge Hawkins, Sr., Esq., requested a hearing. Compl., Tab B. Mr. Hawkins, Sr. explained that “[his] law firm [would] be representing Black Bels Security, LLC (BBSI) in this matter.” *Id.*

On August 22, 2022, this office sent Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), a copy of the complaint, the Notice of Intent to Fine (NIF), and Respondent’s request for a hearing, via U.S. certified mail. According to the United States Postal Service, these documents were served upon Respondent on August 25, 2022, making Respondent’s answer due on September 26, 2022. *See* 28 C.F.R. § 68.9.

On September 27, 2022, Respondent, this time through Eldridge Hawkins, II, filed a Request to Extend Time to File Respondent’s Answer to the Complaint & Certification in Support.

The Court granted Respondent’s motion in its September 29, 2022 Order Granting Extension of Time to File Answer. United States v. Black Belt Sec. & Investigations, LLC, 17

OCAHO no. 1456 (2022). In that order, the Court noted that “Eldridge Hawkins, Sr., filed the request for hearing on behalf of [Respondent], whereas Eldridge Hawkins, II, filed the . . . extension request.” *Id.*, 1 n. 1. The Court explained that OCAHO’s rule permit both attorneys and partners or general officers to appear on behalf of the company, but that they must file notices of appearance. *Id.* The Court then ordered whoever was representing Respondent “to file a notice of appearance that comports with § 68.33(f), and clarify their relationship to Respondent.” *Id.*

In its Answer, Respondent included a section labeled “Designation of Trial Counsel” in which “Eldridge Hawkins, II., CEO/General Officer of Black Belt Security” entered an appearance, pursuant to 28 C.F.R. § 68.33(c)(3)(iv), which allows partners or general officers to represent their companies in OCAHO proceedings. Answer 4. Respondent also stated that Mr. Hawkins, II’s appearance was entered “jointly with Eldridge Hawkins, Sr., Esq. . . . appearing as co-[counsel]” with “both . . . designated as trial counsel for the matter.” *Id.* Respondent included the same notice of appearance language in its Amended Answer. Amended Answer 4.

The case was stayed for a lengthy period because Mr. Hawkins, II, experienced a medical emergency.

After the expiration of the stay, the Court held a prehearing conference with the parties on February 26, 2024. At that conference, Mr. Hawkins, II, stated that he was not operating as counsel for the Respondent, but rather as a corporate representative. The Court further inquired as to whether the Respondent was operating pro se in this matter, or whether it anticipated that it would retain counsel. Respondent asserted that it was operating pro se; the Court thereafter explained the Settlement Officer Program in manner appropriate for a pro se litigant and inquired about Mr. Hawkins, II’s understanding of the program. Upon Mr. Hawkins, II’s confirmation that he understood the program and wished to participate, the Court granted the parties’ joint request for referral to the Program.

On March 12, 2024, the Court issued an order referring the case to the Settlement Officer Program for a period of 60 days beginning on March 15, 2024, and designating Administrative Law Judge Bell as the Settlement Officer.

In the same order, the Court also ordered the parties to file electronically. However, the Court did not receive an e-filing form for Mr. Hawkins, Sr. Complainant’s counsel and Mr. Hawkins, II were served with the March 12, 2024 order, but Mr. Hawkins, Sr., was not served.

## II. RESPONDENT’S COUNSEL AND CORPORATE REPRESENTATIVE

Respondent’ statements in this matter have variously represented that Respondent has counsel through Mr. Hawkins, Sr.; that it does not have counsel and is operating pro se with Mr. Hawkins, II as the corporate representative; and that both Mr. Hawkins Sr. and Jr. are the corporate representatives in this matter. Complicating this matter further, in the filings identifying Mr. Hawkins, Sr., as the corporate representative, they do not describe his title within the company.

This ambiguity with regard to who speaks for the Respondent and who is thereby authorized to settle on its behalf prevents the Respondent’s entry into the Settlement Officer Program. To facilitate the parties’ discussions and ensure that the parties and the Settlement

Officer have clarity about who represents Respondent in this case, the Court now addresses that ambiguity.

#### A. Regulatory Standards

28 C.F.R. § 68.33(c) offers a list of “[p]ersons who may appear before the Administrative Law Judges on behalf of parties . . . includ[ing]” admitted attorneys, law students with advance approval by the Court, and individuals who are neither attorneys nor law students upon approval by the Court, with an exception for partners and general officers of corporations, partnership, and associations, who do not need to seek prior approval.

Under 28 C.F.R. 68.33(f), “[e]xcept for a government attorney filing a complaint pursuant to 274A, 274B, or 274C of the INA, each attorney shall file a notice of appearance.” This notice of appearance must include 1.) the case name; 2.) the case number if assigned, and 3.) what party the attorney will be representing. *Id.* However, “[a] request for hearing signed by an attorney and filed with the Department of Homeland Security . . . and containing the same information as required by this section, shall be considered a notice of appearance on behalf of the respondent for whom the request was made.” *Id.*

Under 28 C.F.R. § 68.33(c)(3)(iv), “[a]n individual may represent him or herself or any corporation . . . of which that individual is a partner or general officer in proceedings before the Administrative Law Judge” without requesting permission, but they must “file a notice of appearance” that complies with 28 C.F.R. § 68.33(f).

Attorneys and representatives seeking to withdraw may submit a written motion, pursuant to 28 C.F.R. § 68.33(g), which the presiding administrative law judge may grant or deny. “Motions for withdrawal of counsel, when properly filed, are usually granted.” United States v. HDB Network Tech., Inc., 18 OCAHO no. 1483, 2 (2023).

#### B. Discussion

Mr. Hawkins, Sr., submitted Respondent’s request for hearing to DHS on November 15, 2021, and Complainant correctly included the request for hearing as an exhibit to its Complaint. In accordance with 28 C.F.R. § 68.33(f), Mr. Hawkins, Sr., entered a notice of appearance in this matter. Over the course of the case, Mr. Hawkins, Sr., filed the following on behalf the Respondent: 1) Request for Hearing, dated November 15, 2021; 2) Respondent’s Motion Request to Extend Time for Respondent’s Response for at Least Six Months, filed on September 27, 2022; 3) Joint Status Report and Motion, filed on August 8, 2023. Mr. Hawkins, Sr. does not appear in any public filings or appearance before this Court since August 2023.

Mr. Hawkins, II included a section in both the Answer and the Answer to the Amended Complaint, titled “Designation of Trial Counsel,” described above. Although for the clarity of the record, ideally a Notice of Appearance should be a separate filing from the Answer, Mr. Hawkins, II’s filings did make clear the case name, case number, and which party Mr. Hawkins, II was representing, and thus fulfilled the regulatory requirements. Over the course of the case, Mr. Hawkins, II, has filed the following on behalf of the Respondent: 1) Request to Extend Time to File Respondent’s Answer to the Complaint & Certification in Support, filed on September 27, 2022; 2) Answer, filed on November 9, 2022; 3) Answer to Amended Complaint, filed on

December 3, 2022; 4) Joint Status Report, filed on December 14, 2023; 5) Respondent's Email Filing Program Registration Form, received on February 22, 2024; 6) Respondent's Prehearing Statement, filed on February 22, 2024; 7) Joint Motion to Refer Matter to OCAHO Settlement Officer Program. As explained above, Mr. Hawkins, II, represented to the Court that he was its corporate representative during the February 26, 2024 prehearing conference, and signed the Joint Motion to Refer Matter to OCAHO Settlement Officer Program.

Because Mr. Hawkins, II identified himself as Respondent's representative in the February 26, 2024 prehearing conference, and because he is an appropriate representative for Respondent as an officer of the company who has entered a notice of appearance, and also because Mr. Hawkins, II has stated that he does not have counsel in this matter, the Court considers him Respondent's sole representative.

The Court therefore WITHDRAWS Mr. Hawkins, Sr. as Respondent's counsel or corporate representative in this case. Consequently, Mr. Hawkins, Sr. will no longer be able to submit filings or attend conferences on behalf of Respondent. The Court reaches this conclusion based on Mr. Hawkins, II's representations during the prehearing conference, and due to Mr. Hawkins, Sr.'s failure to describe himself as a partner or general officer of the company, as the rules require, in order to be a corporate representative.

Nothing in this Order prevents Respondent from obtaining new counsel, or from reengaging Mr. Hawkins, Sr. as counsel for the Respondent in this matter. If Mr. Hawkins, Sr. (or other counsel for Respondent) submits a notice of appearance, they must attend all conferences on behalf of Respondent and submit all filings on behalf of Respondent going forward.

### III. SETTLEMENT OFFICER REFERRAL SCHEDULE

In light of the foregoing, the Court now RESETS the beginning of the Settlement Officer Program referral period to **April 15, 2024**. The referral period will be 60 days.

All case deadlines are STAYED until **June 20, 2024**. The Court will hold a status conference with the parties on **June 20, 2024 at 11 am ET**. Parties shall attend the conference via the OpenVoice platform, by dialing #-###-###-#### and using the conference room number ###-###-###.

SO ORDERED.

Dated and entered on March 27, 2024.

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Honorable John A. Henderson  
Administrative Law Judge