

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

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| Complainant, |) | |
| |) | 8 U.S.C. § 1324a Proceeding |
| v. |) | |
| |) | OCAHO Case No. 2021A00027 |
| MRD LANDSCAPING & MAINTENANCE, |) | |
| CORP., |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

Appearances: Martin Celis, Esq., for Complainant
Cynthia Canales, Esq., for Respondent

NOTICE AND ORDER TO SHOW CAUSE
REGARDING ANSWER TO AMENDED COMPLAINT

I. PROCEDURAL HISTORY

On April 12, 2021, 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) alleging that Respondent, MRD Landscaping & Maintenance, Corp., violated the employer sanctions provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. The complaint reflects that ICE served Respondent with a Notice of Intent to Fine on October 1, 2019, and Respondent thereafter timely requested a hearing before OCAHO.

On May 21, 2021, Respondent filed an answer to the complaint. By order dated June 30, 2021, the Court directed the parties to file prehearing statements and make their initial disclosures. Both parties then filed their prehearing statements.

On July 26, 2021, Complainant filed a Motion for Leave of Court to Amend Complaint and an Amended Complaint Regarding Unlawful Employment. In its

motion, Complainant sought the Court's leave to amend the complaint to remove "'timely' from Count II, failure to timely prepare[.]" and to include information pertaining to civil monetary penalties. Mot. for Leave of Ct. to Amend Compl. 3. On December 17, 2021, the Court granted Complainant's motion to amend the complaint in this matter and ordered Respondent to file an answer to the amended complaint within twenty days of the date of issuance of the order. As of the date of this Order, Respondent has not filed its answer.

II. LEGAL STANDARDS AND DISCUSSION

Respondent, who requested a hearing before this Court, has failed to file an answer to the amended complaint as this Court ordered on December 17, 2021. When a party fails to respond to an order issued by an Administrative Law Judge (ALJ), OCAHO precedent provides that the ALJ may order that party to show good cause for its failure to respond to the order. *See, e.g., United States v. Sal's Lounge*, 15 OCAHO no. 1394b, 1 (2022) (ordering the respondent to show good cause for failure to file an answer to the amended complaint); *United States v. Ferrantino Fuel Corp.*, 13 OCAHO no. 1335, 1 (2019) (ordering the respondent to show good cause for failure to file a prehearing statement). The Court will follow that precedent here and now orders Respondent to file a response showing good cause for its failure to file an answer to the amended complaint. The Court further orders Respondent to file an answer to the amended complaint simultaneously with the filing of its response showing good cause. Upon receipt of Respondent's filings, the Court will determine if Respondent has demonstrated the requisite good cause for failing to file its answer to the amended complaint and will decide whether to allow its untimely answer.

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide that the Court may dismiss a request for a hearing "upon its abandonment by the party or parties who filed it."¹ 28 C.F.R. § 68.37(b). A party shall be deemed to have abandoned its request for a hearing if it "fails to respond to orders issued by the Administrative Law Judge." 28 C.F.R. § 68.37(b)(1); *see also United States v. AMA Repiping, LLC*, 15 OCAHO no. 1391, 2 (2021); *United States v. Hosung*

¹ OCAHO's Rules of Practice and Procedure for Administrative Hearings are the provisions contained in 28 C.F.R. part 68 (2022). OCAHO's rules are available on OCAHO's homepage on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions#LawsandRegulations>.

Cleaning Corp., 4 OCAHO no. 681, 776, 777-78 (1994).² Respondent already has failed to respond to one of the Court's orders, and the Court now puts Respondent on notice of the potential consequences should it fail to respond to this Notice and Order to Show Cause Regarding Answer to Amended Complaint. If Respondent does not respond to this Order, the Court may find that Respondent has abandoned its request for a hearing and, consequently, dismiss that request. *See Sal's Lounge*, 15 OCAHO no. 1394b, at 2 (citing 28 C.F.R. §§ 68.37(b)-(b)(1)).

III. ORDERS

IT IS SO ORDERED that, within twenty days of the issuance of this Order, Respondent, MRD Landscaping & Maintenance, Corp., shall file with the Court a response in which it must show good cause for its failure to file an answer to the amended complaint, in accordance with this Court's Order Granting Motion to Amend Complaint and Directing Respondent to File Answer dated December 17, 2021.

IT IS FURTHER ORDERED that, within twenty days of the issuance of this Order, Respondent shall file an answer to the amended complaint that comports with 28 C.F.R. § 68.9.

² Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database "FIM-OCAHO," or in the LexisNexis database "OCAHO," or at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

The Court puts Respondent on notice that, if it fails to respond as ordered or cannot show good cause for its failure to respond to the Court's Order dated December 17, 2021, the Court may find that Respondent has abandoned its request for a hearing and, accordingly, may dismiss the request for a hearing in this matter pursuant to 28 C.F.R. § 68.37(b).

SO ORDERED.

Dated and entered on March 3, 2022.

Honorable Carol A. Bell
Administrative Law Judge