

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. 2023A00046
MARTIN LANDSCAPE MANAGEMENT,)	
INC.,)	
)	
Respondent.)	
_____)	

Appearances: Colin W. Maguire, Esq., and Jodie A. Schwab, Esq., for Complainant
Kevin R. Lashus, Esq., for Respondent

ORDER FOR JOINT STATUS REPORT

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. On February 28, 2023, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent, Martin Landscape Management, Inc., violated 8 U.S.C. § 1324a(a)(1)(B). On April 28, 2023, Respondent, through counsel, filed a Special Appearance and Answer.

On January 25, 2024, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference, through which it scheduled an initial telephonic prehearing conference with the parties on February 29, 2024, pursuant to 28 C.F.R. § 68.13.¹ Order Prehr's Statements & Scheduling Initial Prehr's Conf. 3.

¹ Proceedings in this case will generally be governed by OCAHO's Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in

In this Order, the Court also informed the parties about the OCAHO Settlement Officer Program,² a voluntary program through which a Settlement Officer mediates settlement negotiations between the parties as a means of non-binding, alternative dispute resolution. *Id.* at 6.

The Court conducted the initial telephonic prehearing conference with the parties as scheduled on February 29, 2024. During the prehearing conference, the Court explained the OCAHO Settlement Officer Program and its governing policies and procedures. Order Memorializing Initial Prehr’g Conf. 2. The parties expressed interest in a referral to the OCAHO Settlement Officer Program for mediation, confirmed their understanding of the program’s policies and procedures, consented to their use, and agreed to an initial sixty-day referral to a Settlement Officer. *Id.*

On March 13, 2024, the parties filed a Joint Motion to Refer Case to OCAHO Settlement Officer Program in accordance with the requirements of EOIR Policy Memorandum 20-16. *See* Policy Memorandum 20-16, Section II.A. (Aug. 3, 2020) (providing for referral upon “written confirmation of consent” from the parties). In their joint motion, the parties explained that, during the prehearing conference, the Court “fully informed [the parties] as to the OCAHO Settlement Officer Program, and its requirements,” and they “orally agreed to enter the OCAHO Settlement Officer Program upon referral from this Court.” *Id.* The parties stated that they now “formalize that desire through the Joint Motion” and moved the Court to refer the case for mediation through the program. *Id.*

The Court granted the parties’ Joint Motion on April 23, 2024, through an Order Granting Joint Motion to Refer Case to OCAHO Settlement Officer Program, Referring Case to Settlement Officer Program, and Designating Settlement Officer. *United States v. Martin Landscape Mgmt., Inc.*, 19 OCAHO no. 1551 (2024).³ The

28 C.F.R. part 68 (2024). 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-regulations>.

² EOIR Policy Memorandum 20-16 sets forth the OCAHO Settlement Officer Program and is available at <https://www.justice.gov/eoir/page/file/1300746/download>. *See also* Chapter 4.7 of the OCAHO Practice Manual available at <https://www.justice.gov/eoir/reference-materials/ocaho/chapter-4/7>.

³ 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

Court found that the parties satisfied the requirements for a referral to the OCAHO Settlement Officer Program, the matter was appropriate for referral, and none of the factors in 5 U.S.C. § 572(b), EOIR Policy Memorandum 20-16, Section I.C.3, or Chapter 4.7(a)(4)(C) of the OCAHO Practice Manual counseled against referral. *Id.* at 4 (citing Pol’y Memo. 20-16, Secs. II.A.1, II.C.1-2; and then citing Order Memorializing Prehr’s Conf. 2). Given these findings, the Court granted the parties’ Joint Motion, designated a Settlement Officer, and referred this matter to the OCAHO Settlement Officer Program for a period of sixty days, beginning on April 25, 2024, and continuing through June 24, 2024. *Id.* Should they reach a settlement agreement, the Court told the parties to consult 28 C.F.R. § 68.14 which sets forth the two avenues for leaving the forum. *Id.* at 5. If they did not reach a settlement, the Court informed the parties that they could seek an extension of the referral period. *Id.*

The Settlement Officer in this matter informed the Court on June 24, 2024, that the parties would not be seeking an extension of the Settlement Officer Program referral period and were close to finalizing a settlement agreement and an appropriate motion.

II. DISCUSSION

The Court’s referral of this matter to the OCAHO Settlement Officer Program concluded on June 24, 2024, and this matter is now back before the Court for continued proceedings. Although the Settlement Officer represented that the parties were close to finalizing a settlement agreement and filing an appropriate motion with the Court, no motion has been filed. The parties also have not sought another referral to the OCAHO Settlement Officer Program. As such, the Court now orders the parties to file a joint status report providing a case update and describing the status

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 after Volume 8, where the decision has not yet been 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 through the Westlaw database “FIM-OCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

of their settlement negotiations and, if applicable, seeking a specific amount of time from the Court to make the appropriate filings pursuant to 28 C.F.R. § 68.14.⁴ The parties also may seek a referral back to the OCAHO Settlement Officer Program for an agreed time period of up to thirty days.

Should the parties' settlement negotiations have concluded unsuccessfully, they shall confer and use the status report to provide the Court with agreed proposed dates for the completion of discovery, the filing of dispositive motions and responses, and a contested hearing in this matter. The parties shall identify in the status report their preferred location (city and state) for the hearing.⁵

The parties shall file the joint status report no later than fifteen days from the date of this Order.

III. ORDERS

IT IS SO ORDERED that the Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and Respondent, Martin Landscape Management, Inc., shall file a joint status report with the Court within fifteen days of the date of this Order; and

IT IS FURTHER ORDERED that, should the parties reach a settlement, they shall proceed in accordance with 28 C.F.R. § 68.14.

⁴ 28 C.F.R. § 68.14 describes the two avenues for leaving this forum upon settlement. The parties may proceed pursuant to 28 C.F.R. § 68.14(a)(2) by filing a joint notice of full settlement and an agreed motion to dismiss this case signed by counsel for both parties. The parties should indicate in any such motion whether they are seeking dismissal with or without prejudice.

⁵ Sections 274A(e)(3)(B) and 274C(d)(2)(B) of the INA dictate that hearings be held "at the nearest practicable place to the place where the person or entity resides or to the place where the alleged violation occurred." 28 C.F.R. § 68.5(b).

SO ORDERED.

Dated and entered on August 29, 2024.

Honorable Carol A. Bell
Administrative Law Judge