

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

September 18, 2024

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2024A00120
)	
)	
K-MOMO, INC.,)	
Respondent.)	
)	

NOTICE AND ORDER TO SHOW CAUSE – FAILURE TO FILE ANSWER

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On July 15, 2024, 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). The complaint alleged that Respondent, K-Momo, Inc., failed to ensure that the employee properly completed Section 1 and/or failed to properly complete Section 2 or 3 of the Form I-9 for three individuals; failed to ensure that the employee properly completed Section 1 and/or failed to properly complete the Form I-9 for 175 individuals;¹ and failed to prepare and/or present the Form I-9 for five individuals, in violation of 8 U.S.C. § 1324b(a)(1)(B). Compl. 3-10.

On July 16, 2024, this office served Respondent via United States certified mail with the complaint, a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), the NIF, and Respondent's request for hearing (collectively the complaint package). The NOCA directed that an answer was to be filed within 30 days of receipt of the Complaint, that failure could lead to entry of default, and that proceedings would be governed by OCAHO's Rules of Practice and Procedure.² NOCA 1-3.

¹ Although the proposed penalties for Counts 1 and 2 are different, the complaint does not specify the difference between Counts 1 and 2.

² OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024). The rules are also available through OCAHO's webpage on the United States Department of Justice's website. See <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

The U.S. Postal Service website indicates service of the complaint package on Respondent's counsel on July 20, 2024, and service of the complaint package on Respondent on July 22, 2024. Respondent's answer was therefore due no later than July 19, 2024. 28 C.F.R. § 68.9(a); *United States v. TX Pollo Feliz*, 18 OCAHO no. 1503, 3 (2023).³ To date, Respondent has not filed an answer.

To contest a material fact alleged in the complaint or a penalty assessment, a respondent must file an answer. 28 C.F.R. § 68.9(c). Failure to file an answer 'within the time provided may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint. The Administrative Law Judge may enter a judgment by default.' 28 C.F.R. § 68.9(b). Additionally, "failure to respond to an Order may trigger a judgment by default." *United States v. Hotel Valet, Inc.*, 6 OCAHO no. 849, 252, 254. "If a default judgment is entered, the request for hearing is dismiss, and judgment is entered for the complainant without a hearing." *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004).

Alternatively, Respondent is on notice the Court may find that Respondent has abandoned its request for a hearing and dismiss the case, making the NIF the final agency order. 28 C.F.R. § 68.37(b)(1). See, e.g., *United States v. Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457c (2023).

Respondent is ORDERED to file both its answer, and a submission explaining its good cause for its failure to timely file an answer. Both must be received by the Court within 21 days of the date of this Order.

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 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 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 in the Westlaw database "FIMOCAHO," or in the LexisNexis database "OCAHO," or on the website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

SO ORDERED.

Dated and entered on September 18, 2024.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge