

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

January 23, 2025

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2024A00129
)	
)	
CHELMONT AUTO CENTER, LLC,)	
Respondent.)	
)	

SECOND NOTICE AND ORDER TO SHOW CAUSE

I. PROCEDURAL HISTORY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324a. 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) on September 12, 2024, against Respondent Chelmont Auto Center, LLC alleging it violated 8 U.S.C. § 1324a(a)(1)(B).

On September 26, 2024, the Chief Administrative Hearing Officer sent a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices and a copy of the Complaint (the “Complaint package”) by United States Postal Service (USPS) certified mail to an address provided by the Complainant in the Complaint. USPS tracking data shows the Complaint package was delivered and left with an individual at the address provided on October 7, 2024.

The Complaint package notified Respondent that it “has the right to file an answer to the complaint” and that this answer “must be filed within thirty (30) days after receipt of the attached complaint” Notice Case Assignment 3 (citing 28 C.F.R. §§ 68.3(b), 68.9).¹ The CAHO also warned Respondent that if it “fail[ed] to file an answer within the time provided, the Respondent may be deemed to have waived its right to appear and contest the allegations of the complaint, and

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

the Administrative Law Judge may enter a judgment by default along with any and all appropriate relief.” *Id.* (citing 28 C.F.R. § 68.9(b)).

Because Respondent received the Complaint package on October 7, 2024, its answer was due by November 6, 2024.

On December 3, 2024, the Court issued an Order to Show Cause through which it ordered Respondent to file an answer and demonstrate good cause for its failure to timely file. *United States v. Chelmont Auto Ctr., LLC*, 21 OCAHO no. 1624 (2024).² The Order provided Respondent with twenty-one days to submit a response, making a submission due by December 24, 2024. To date the Court has not received a submission from Respondent.

II. DISCUSSION

As discussed in the prior Order to Show Cause, under OCAHO’s Rules of Practice and Procedure, 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). The answer must be filed within thirty days of being served with a complaint. 28 C.F.R. § 68.9(a).

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). “If a default judgment is entered, the request for hearing is dismissed, AND judgment is entered for the complainant without a hearing.” *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004).

Alternatively, OCAHO’s Rules provide, “[a] . . . request for hearing may be dismissed upon its abandonment by the party . . . who filed it” and “[a] party *shall* be deemed to have abandoned a request for hearing if a party . . . fails to respond to orders issued by the Administrative Law Judge.” 28 C.F.R. § 68.37(b)–(b)(1) (emphasis added); *see United States v. Steidle Lawn*, 17 OCAHO no. 1469a, 2 (2023).

Given Respondent’s failure to respond to the earlier Order to Show Cause, the Court could enter default against Respondent, *see United States v. Dubose Drilling, Inc.*, 18 OCAHO no. 1487a, 3 (2023), or deem the request for hearing abandoned and dismiss the case, *see United States v. In-Power Motors, LLC*, 19 OCAHO no. 1545a, 2 (2024), at this juncture. The Court, however, will give Respondent one final opportunity to respond.

² Citations to OCAHO precedents after volume eight, where the decision has not yet been reprinted in a bound volume, include the volume and case number of the particular decision. Pinpoint citations 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: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

The Court ORDERS Respondent to file an answer, pursuant to 28 C.F.R. § 68.9(c), within 21 days of the date of this Order. The Court further ORDERS Respondent to file a submission demonstrating good cause for its failure to timely file an answer, also within 21 days of the date of this Order.

If the Respondent does not comply with this Order, the Court will deem Respondent's request for hearing abandoned and the Notice of Intent to Fine will become the Final Order. *See* 28 C.F.R. § 68.37(b)(1).

SO ORDERED.

Dated and entered on January 23, 2025.

Honorable Jean C. King
Chief Administrative Law Judge