

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. 2024A00052
SECURITAS SECURITY SERVICES)	
USA, INC.,)	
)	
Respondent.)	
)	

Appearances: Hazel Gauthier, Esq., for Complainant
Sean M. McCrory, Esq., for Respondent

ORDER ON SERVICE OF COMPLAINT

I. PROCEDURAL HISTORY

On February 21, 2024, Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent, Securitas Security Services USA, Inc., violated 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. Specifically, Complainant alleges that Respondent: (1) failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for eight individuals; (2) failed to prepare and/or present the Form I-9 for thirty individuals; (3) failed to ensure that an employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Form I-9 for one individual; and (4) failed to ensure that employees properly completed section 1 and/or failed to properly complete section 2 or 3 of the Form I-9 for 664 individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 3. Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA (NIF), it served on Respondent on July 11, 2022, seeking a fine of \$1,498,093 for the alleged violations, and Respondent's request, through

counsel, for a hearing before OCAHO dated August 1, 2022 (“request for hearing”).¹ *Id.*, Exs. A–B. Complainant also attached a request that OCAHO serve the complaint on Respondent’s counsel at an address in Texas and the Respondent business directly through Greg W. Anderson at an address in New Jersey. *Id.*, Attach. (citing 28 C.F.R. § 68.7.).

On February 28, 2024, using the United States Postal Service (USPS) certified mail, OCAHO’s Chief Administrative Hearing Officer (CAHO) sent Respondent and its counsel a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), the complaint, the NIF, and Respondent’s request for hearing (together, the “Complaint package”). Through the NOCA, the CAHO directed Respondent to answer the complaint within thirty days in accordance with 28 C.F.R. § 68.9(a).² Notice of Case Assignment ¶ 4.

The USPS certified mail tracking tool reflected that the Complaint package was delivered to the front desk, reception area, or mail room of the Respondent business on March 4, 2024. OCAHO also received a USPS Domestic Return Receipt Form (PS Form 3811) for the Complaint package sent to Respondent, confirming service of the Complaint package on the Respondent business on March 4, 2024. The return receipt however did not reflect receipt by the addressee, Greg W. Anderson, whom Complainant identified as the intended recipient. Rather, the return receipt was signed by another individual. As for the Complaint package mailed to Respondent’s counsel, the USPS certified mail tracking tool reflected that the Complaint package sent to counsel was delivered to an individual on March 11, 2024. OCAHO later received an undated return receipt for that delivery; the receipt was signed by another individual.

Respondent’s counsel filed Respondent’s Answer and Affirmative Defenses via facsimile on April 11, 2024. OCAHO received the original, signed filing by mail on April 15, 2024.

¹ The Court considers this signed request for hearing to be a notice of appearance by counsel, Sean M. McCrory, on behalf of Respondent. *See* 28 C.F.R. § 68.33(f). Mr. McCrory also filed a Notice of Appearance on April 11, 2024.

² These proceedings are governed by OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024). OCAHO’s Rules are available on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

II. DISCUSSION AND ANALYSIS

For clarity of the record, the Court addresses service of the complaint on Respondent, the deadline for filing an answer to the complaint, and the timeliness of Respondent's Answer and Affirmative Defenses.

Although OCAHO serves the complaints that parties file before the Court, complainants bear the responsibility of providing OCAHO with "a statement identifying the party or parties to be served by [OCAHO] with notice of the complaint pursuant to [28 C.F.R.] § 68.3." 28 C.F.R. § 68.7(b)(5). This statement must accompany the complaint being filed. *Id.* Here, DHS identified Greg W. Anderson at the Respondent business as a party to be served, although it did not indicate Mr. Anderson's relationship to the corporation. Compl. Attach. Complainant also identified attorney Sean M. McCrory as an individual to be served with the complaint. *Id.*

After receipt of the complaint, the CAHO mailed the Complaint package to Respondent and its counsel via USPS certified mail in accordance with OCAHO's Rules of Practice and Procedure for Administrative Hearings. *See* 28 C.F.R. § 68.3(a)(3) ("Service of a complaint may be effectuated by . . . mailing [the complaint] to the last known address of such individual, partner, officer, or attorney or representative of record."). The USPS website's certified mail tracking tool reflects that the Complaint package was delivered to both addresses, although on different dates. The Respondent business received the Complaint package on March 4, 2024, and Respondent's counsel received the Complaint package on March 11, 2024. The USPS return receipts likewise confirmed the deliveries, including the March 4, 2025, delivery date to the Respondent corporation, but both return receipts lacked the printed names and signatures of the intended recipients, namely, Greg W. Anderson and Sean M. McCrory. Rather, as may be expected at large corporations or law firms, other individuals at the Respondent business and counsel's law firm accepted delivery of the Complaint package and signed the USPS return receipts. Indeed, the USPS mail tracking tool notes that the USPS delivery to the Respondent corporation was accomplished by leaving the Complaint package at the corporation's front desk, reception area, or mail room. Although OCAHO's Rules of Practice and Procedure for Administrative Hearings state that "[s]ervice of complaint and notice of hearing is complete upon receipt by addressee[.]" 28 C.F.R. § 68.3(b), the lack of specific signatures on the USPS return receipts does not render service invalid in this case. The USPS certified mail tracking tool confirms delivery of the Complaint package to both the Respondent corporation and its counsel and the date of delivery to the Respondent business matches the date on the return receipt. Given the facts before it, the Court finds that service of the complaint was effectuated on Respondent at both addresses in accordance with 28 C.F.R. § 68.3(a)(3). *See United States v. PJ's of Tex., LLC*, 18 OCAHO no. 1524, 3 (2024) (finding service effectuated where OCAHO

mailed the complaint package to Respondent's counsel and the USPS website confirmed delivery, despite a return receipt lacking Respondent's counsel's signature).³

Given Respondent's status as a represented party in this matter, the Court exercises its discretion and calculates the thirty-day deadline for the filing of Respondent's answer using the March 11, 2024, date of service of the Complaint package on Respondent's counsel, rather than the March 4, 2024, date of delivery on the Respondent business. This comports with OCAHO's Rules of Practice and Procedure for Administrative Hearings and OCAHO precedent. See 28 C.F.R. § 68.6(a) ("When a party is represented by an attorney, service shall be made upon the attorney.");⁴ see *United States v. Hyeon Yi*, 8 OCAHO no. 1011, 218, 219 n.1 (1998) (OCAHO's "rules direct that when a party is represented, service of the complaint shall be made upon the attorney, 28 C.F.R. § 68.6(a), and that such service is complete upon receipt."); but see *United States v. TX Pollo Feliz LLC*, 18 OCAHO no. 1503 (2023) (finding that delivery pursuant to 28 C.F.R. § 68.3(a)(1) "does not require [that] both Respondent and counsel receive the complaint to calculate the [answer]

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 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 in the Westlaw database "FIM-OCAHO," the LexisNexis database "OCAHO," or on OCAHO's homepage on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

⁴ To the extent that 28 C.F.R. § 68.6(a) could be read to be focused on the service of filings subsequent to the complaint, see Federal Rule of Civil Procedure 5(b)(1), the Court notes that Complainant was aware of Respondent's status as a represented party for more than eighteen months before it filed the complaint in this case. On August 1, 2022, Respondent's counsel, Mr. McCrory, signed and filed with DHS a request for hearing before OCAHO. Compl. Ex. B. When the complaint was filed, Mr. McCrory's appearance was considered to have been entered in this case. See 28 C.F.R. § 68.33(f) ("A request for a hearing signed by an attorney and filed with [DHS] pursuant to section 274A(e)(3)(A) or 274C(d)(2)(A) of the INA, 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."). Service of the complaint on Respondent's counsel was therefore appropriate.

deadline” and using the earlier date of service on the respondent business, not the later date of service on its counsel). The CAHO has likewise found that service on the respondent’s counsel is proper; however, the respondent business was not served in those cases. *See United States v. Koamerican Trading Corp.*, 1 OCAHO no. 63, 379, 385 (1989) (CAHO Order) (finding that “[s]ervice of the complaint and notice of hearing upon Attorney [for the respondent] was proper service” and correctly used to calculate the answer deadline and explaining that the respondent business was not served); *United States v. Edgemont Grp., LLC*, 17 OCAHO no. 1470b, 2 n.5 (2023) (CAHO Order) (citing 28 C.F.R. § 68.3(a)(3) and finding that “service [of a Notification of Administrative Review] was properly effected on [r]espondent via service on [r]espondent’s attorneys of record” and noting that “[t]he copy” of the Notification sent to Respondent’s owner was undeliverable).

As the CAHO explained in the NOCA, Respondent’s answer must be filed within thirty days after service of the complaint in accordance with 28 C.F.R. § 68.9(a). Notice of Case Assignment ¶ 4. OCAHO’s Rules of Practice and Procedure for Administrative Hearings also provide that, “[w]henever a party . . . is required to take some action within a prescribed period after the service upon such party of a . . . notice . . . served by ordinary mail, five (5) days shall be added to the prescribed period unless the compliance date is otherwise specified . . .” 28 C.F.R. § 68.8(c)(2). Therefore, Respondent’s answer to the complaint was due no later than April 15, 2024.

Given the regulatory time limitation, Mr. McCrory filed Respondent’s Answer and Affirmative Defenses via facsimile on April 11, 2024. Respondent’s counsel did so in accordance with OCAHO’s Rules of Practice and Procedure for Administrative Hearings which permit a party to file pleadings and briefs by facsimile where a time limit is imposed by statute, regulation, or order, but they may do so “only to toll the running of a time limit.” 28 C.F.R. § 68.6(c). OCAHO’s regulation requires that the party filing by facsimile certify in its certificate of service that the original filing was served on the opposing party by facsimile or same-day hand delivery, or, if those methods are not feasible, by overnight delivery service. *Id.* Here, Respondent complied with OCAHO’s regulation because it certified that it served Complainant by facsimile on April 11, 2024, being the same day that it filed its answer by facsimile with OCAHO. Answer 4. Further, Respondent forwarded the original, signed pleading to OCAHO in accordance with 28 C.F.R. § 68.6(c). OCAHO received the original, signed filing by mail on April 15, 2024, being the answer deadline. The Court therefore finds that Respondent’s answer was timely filed.

The Court reminds the parties that they must timely notify OCAHO of any changes in address by filing a notice with the Court and serving it on the opposing party. *See Ferrero v. Databricks*, 18 OCAHO no. 1505, 2 (2023) (“All representatives and parties are also required to maintain a current address with OCAHO and to

timely file a notice of a change of address with the presiding ALJ . . . and must also serve such notice on the opposing party.”) (citing *United States v. Cordin Co.*, 10 OCAHO no. 1162, 4 (2012)); *United States v. Ortiz*, 6 OCAHO no. 904, 919, 925 (1996) (“It is the party’s responsibility to inform the Court and opposing party of any change of address.”).

SO ORDERED.

Dated and entered on March 24, 2025.

Honorable Carol A. Bell
Administrative Law Judge