

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

United States of America, Complainant, v. Estela Rodriguez, Individually and d/b/a Cabaret Lounge, Respondent; 8 U.S.C. 1324a Proceeding; Case No. 88100021.

JUDGMENT BY DEFAULT

On March 23, 1988 Complainant, the Immigration and Naturalization Service (INS), filed its complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Estela L. Rodriguez, Individually and d/b/a Cabaret Lounge, the Respondent. OCAHO docketed the complaint as an 8 U.S.C. 1324a Proceeding, Case No. 88100021. By date of April 6, 1988 the Chief Administrative Hearing Officer issued a notice of hearing on the INS's complaint, attached a copy of the complaint to the notice of hearing, and mailed both by certified mail to the Respondent.

Among other provisions, the notice of hearing informed Respondent that an answer to the complaint must be filed within 30 days after receipt of the complaint. Paragraph 3 of the notice of hearing warned Respondent:

3. If the Respondent fails to file an answer within the time provided, the Respondent may be deemed to have waived his/her right to appear and contest the allegations of the Complaint, and the Administrative Law Judge may enter a judgment by default along with any and all appropriate relief.

I take official notice that the records on file with the OCAHO reflect that Respondent was served with a copy of the INS's complaint on or about April 15, 1988. Alleging that Respondent had violated provisions of 8 U.S.C. 1324a, the complaint incorporated a February 10, 1988 notice of intent to fine (NIF) issued by the INS and served in person on Respondent on February 11, 1988. The NIF alleges, in part, the following counts:

UPON inquiry conducted by the Immigration and Naturalization Service, it is alleged that:

(1) TERESA ROSALES-GUERRA was hired by The Cabaret Lounge on or about October 15, 1987.

(2) As of November 20, 1987, Section 2--`Employer Review and Verification' of Form I-9 had not been completed or attested to for TERESA ROSALES-GUERRA.

(3) CECILIA GASTELUM-VILLEZCAS was hired by The Cabaret Lounge on or about October 9, 1987.

(4) As of November 20, 1987, Section 2--`Employer Review and Verification' of Form I-9 had not been completed or attested to for CECILIA GASTELUM-VILLEZCAS.

(5) ANNETTE BERNADETTE CASTANEDA was hired by The Cabaret Lounge on or about October 10, 1987.

(6) As of November 20, 1987, Section 2--`Employer Review and Verification' of Form I-9 had not been completed or attested to for ANNETTE BERNADETTE CASTANEDA.

In the NIF the INS warned that it would seek a fine of \$600. In its March 1988 complaint the INS seeks a fine of \$600 generally.

On April 28, 1988 Complainant served an amended complaint on Respondent. A copy of the NIF, served on Respondent on February 11, 1988, was attached to an incorporated by the amended complaint. In its amended complaint the INS allocates the requested fines as follows, per count of the NIF:

Count (2):	\$ 100
Count (4):	250
Count (6):	<u>250</u>
TOTAL:	600

Although the Respondent filed a letter response, dated March 7, 1988, to the NIF asserting its denial of the merits and requesting a hearing, the Respondent has not filed an answer either to the original complaint or to the amended complaint. An answer to the original complaint was due 35 days after Respondent's receipt on April 15, 1988, the due date being May 20, 1988.

No answer having been filed by Respondent, Complainant, by date of May 27, 1988, has submitted its motion for default judgment, with a copy being served on the Respondent. As an apparent alternative option, Complainant has submitted, by date of June 14, 1988, copy to Respondent, a proposed summary decision on default and order.

Respondent having failed to file an answer, and the time allowed for filing one having elapsed, I find the Respondent has waived its right to appear and contest the allegations of the amended complaint, and that a judgment by default is appropriate. 28 CFR 68.6(b). Accordingly,

I FIND THE RESPONDENT, Estela Rodriguez, Individually and d/b/a/ Cabaret Lounge, in default. I THEREFORE FIND the Respondent has committed the violations alleged in the Notice of

Intent to Fine and in the amended complaint, and I CONCLUDE that the Respondent has violated Section 274A of The Immigration and Naturalization Act (the ``Act''), 8 U.S.C. 1324a. Consequently,

I ORDER Estela Rodriguez, Individually and d/b/a Cabaret Lounge to take the following action:¹

1. Within 14 days from the date of this Judgment By Default, pay a FINE in the amount of \$600 in either cash, cashier's check, certified check, or money order payable to, and delivered at: Immigration and Naturalization Service, 8901 Montana Avenue, El Paso, Texas.

2. The hearing scheduled for July 19, 1988 is canceled.

SO ORDERED.

Dated at Atlanta, Georgia this June 27, 1988.

RICHARD J. LINTON
Administrative Law Judge

¹Review of this final order may be obtained by filing a written request for review with the Chief Administration Hearing Officer within 5 days of this order as provided in 28 CFR 68.52. This action shall become the final order of the Attorney General unless, within 30 days from the date of this order, the Chief Administrative Hearing Officer modifies or vacates it.