

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

United States of America, Complainant, v. Westco Ground Maintenance Company, Inc., Respondent; 8 U.S.C. 1324a Proceeding; Case No. 88100220.

ORDER DENYING MOTION FOR DEFAULT JUDGMENT

On November 28, 1988 The United States of America filed the above captioned complaint against Respondent, Westco Ground Maintenance Company, Inc. On December 2, 1988 the Office of the Chief Administrative Hearing Officer transmitted the complaint to Respondent together with a notice of hearing which, inter alia, advised Respondent that it must file an answer to the complaint within 30 days of its receipt. See 8 C.F.R. Sec. 68.6(a). When Respondent did not file a timely answer, Complainant, on February 1, 1989 filed a motion for default judgment. On February 2, 1989, Respondent filed its answer together with an opposition thereto asserting that it had failed to do so earlier through oversight. Although I am not particularly impressed with Respondents claim of oversight, I do not see where the Complainant will be prejudiced if its motion is denied. Respondent had, prior to the issuance of the complaint, filed an answer to the notice of intent to fine which had apprised Complainant of its opposition to the fine. Moreover, it is fair to say that the rules which in effect require two answers are somewhat confusing. Accordingly, I shall give Respondent the benefit of the doubt.

IT IS ORDERED: That Complainant's motion for default judgment be, and hereby is, DENIED.

Dated: February 8, 1989 at San Francisco, California.

JAMES M. KENNEDY
Administrative Law Judge