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

December 21, 2018

UNITED STATES OF AMERICA, Complainant,	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 18A00006
EXECUTIVE CLEANING SERVICES OF LONG ISLAND LTD., Respondent.	)	

ORDER ON PENALTIES

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C. § 1324a (2012). Pending before the Court is Complainant's Supplemental Motion for Summary Decision seeking $44,315.60 in penalties. Respondent filed a response.

I. BACKGROUND

On October 3, 2018, the Court granted in part and denied in part Complainant's Motion for Summary Decision. In the Order, the undersigned found Respondent liable for twenty-five substantive violations related to the employment verification process under § 1324a. Order Granting in Part and Denying in Part Complainant's Mot. Summ. Dec. at 7 (Order on Liability). Specifically, the undersigned found that Respondent failed to sign the employer attestation in section two on 100 percent of its Forms I-9. *Id.* at 13. However, the undersigned found issues of material fact remained regarding the penalty determination. *Id.* at 9–12. As such, the undersigned declined to make a determination about the penalties. Trial on the penalty determination was set to begin on October 23, 2018.

On October 9, 2018, the undersigned held a telephonic prehearing conference and reset the trial date to November 29, 2018. In the conference, the undersigned explained that the parties could file additional briefing on the penalty determination if the parties thought it would be more efficient than a hearing to resolve the issue. Complainant filed its Supplemental Motion for Summary Decision on November 13, 2018. On November 15, 2018, the undersigned held a case management conference in which the undersigned set the deadline for Respondent's response to

the Supplemental Motion and the undersigned held the hearing in abeyance. Respondent filed its response on November 29, 2018.

II. STANDARDS

A. Summary Judgment

Under the OCAHO rules, the Administrative Law Judge (ALJ) "shall enter a summary decision for either party if the pleadings, affidavits, material obtained . . . show that there is no genuine issue as to any material fact and that a party is entitled to summary decision." 28 C.F.R. § 68.38(c).[1] "An issue of fact is genuine only if it has a real basis in the record" and "[a] genuine issue of fact is material if, under the governing law, it might affect the outcome of the suit." *Sepahpour v. Unisys, Inc.*, 3 OCAHO no. 500, 1012, 1014 (1993) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–87 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).[2]

"Once the moving party satisfies its initial burden of demonstrating both the absence of a material factual issue and that the party is entitled to judgment as a matter of law, the nonmoving party must come forward with contravening evidence to avoid summary resolution." *U.S. v. Four Seasons Earthworks, Inc.*, 10 OCAHO no. 1150, 3 (2012) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). "[T]he party opposing the motion for summary decision 'may not rest upon the mere allegations or denials' of its pleadings, but must 'set forth specific facts showing that there is a genuine issue of fact for the hearing.'" *U.S. v. 3679 Commerce Place, Inc. d/b/a Waterstone Grill*, 12 OCAHO no. 1296, 4 (2017) (quoting 28 C.F.R. § 68.38(b)). The Court views all facts and reasonable inferences "in the light most favorable to the non-moving party." *U.S. v. Prima Enters., Inc.*, 4 OCAHO no. 615, 259, 261 (1994) (citations omitted).

B. Civil Money Penalties

The Court may assess civil penalties for paperwork violations in accordance with the parameters set forth in 8 C.F.R. § 274a.10(b)(2) and 28 C.F.R. § 85.5. Complainant has the burden of proof with respect to penalties and "must prove the existence of an aggravating factor by a preponderance of the evidence." *3679 Commerce Place*, 12 OCAHO no. 1296 at 4 (citing *U.S. v.*

[1] *See* Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2016).

[2] 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 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," or in the LexisNexis database "OCAHO," or on the website at http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders.

March Construction, Inc., 10 OCAHO no. 1158, 4 (2012); *U.S. v. Carter*, 7 OCAHO no. 931, 121, 159 (1997)).

To determine the appropriate penalty amount, "the following statutory factors must be considered: 1) the size of the employer's business, 2) the employer's good faith, 3) the seriousness of the violations, 4) whether or not the individual was an unauthorized alien, and 5) the employer's history of previous violations." *Id.* at 4 (citing 8 U.S.C. § 1324a(e)(5)). The Court considers the facts and circumstances of the individual case to determine the weight it gives to each factor. *U.S. v. Metropolitan Enters.*, 12 OCAHO no. 1297, 8 (2017). While the statutory factors must be considered in every case, § 1324a(e)(5) "does not mandate any particular outcome of such consideration, and nothing in the statute or the regulations requires . . . that the same weight be given to each of the factors in every case . . . or that the weight given to any one factor is limited to any particular percentage of the total." *U.S. v. Ice Castles Daycare Too, Inc.*, 10 OCAHO no. 1142, 6–7 (2011) (internal citations omitted). Further, the Court may also consider other, non-statutory factors as appropriate in the specific case. *3679 Commerce Place*, 12 OCAHO no. 1296 at 4 (citation omitted). Finally, Complainant's "penalty calculations are not binding in OCAHO proceedings, and the [Administrative Law Judge] may examine the penalties *de novo* if appropriate." *U.S. v. Alpine Staffing, Inc.*, 12 OCAHO no. 1303, 10 (2017).

III. DISCUSSION

In the Order on Liability, the undersigned found Respondent liable for twenty-five substantive paperwork violations under § 1324a, involving failure to properly complete all twenty-five of its Forms I-9. The civil penalties for violations of § 1324a are intended "to set a meaningful fine to promote future compliance without being unduly punitive." *3679 Commerce Place*, 12 OCAHO no. 1296 at 7.

A. Statutory Factors

The Court has considered the five statutory factors in evaluating the appropriateness of Complainant's proposed penalty: 1) the size of the employer's business; 2) the employer's good faith; 3) the seriousness of the violations; 4) whether or not the individual was an unauthorized alien; and 5) the employer's history of previous violations. 8 U.S.C. § 1324a(e)(5).

The undersigned previously found that Respondent is a small business with fewer than 100 employees. Order on Liability at 13. Based on this factor, Complainant mitigated the proposed penalty amount by five percent. Supp. Mot. Summ. J., Ex. G-8 at 2. The Court finds that mitigation is warranted based on the size of Respondent's business.

Complainant considered good faith as a neutral factor. In the Order on Liability, the undersigned discussed the good faith factor and found that Respondent's failure to complete section two on 100 percent its Forms I-9 shows Respondent's lack of good faith. Order on Liability at 11. However, the undersigned found an issue remained regarding, "whether Respondent 'reasonably tried to ascertain what the law requires[.]'" *Id.* (quoting *U.S. v. Snack Attack Deli, Inc.*, 10 OCAHO no. 1137, 10 (2010)). The good faith analysis primarily focuses on the steps the employer took *before* the investigation to reasonably ascertain what the law requires and the steps it took to follow the law. *U.S. v. Snack Attack Deli, Inc.*, 10 OCAHO no. 1137, 10 (2010); *U.S. v. New China Buffet Rest.*, 10 OCAHO no. 1133, 5 (2010). Prior to the investigation,

Respondent had a significantly poor rate of compliance as it failed to sign section two on 100 percent of its Forms I-9. Further, although not charged in the Notice of Intent to Fine, on seventeen Forms I-9, Respondent failed to ensure that the employee attested to his or her authorization to work in the United States. Mot. Summ. Dec., Ex. G-2.[3] However, a low compliance rate, alone, does not warrant a finding of bad faith. *Metropolitan Enters.*, 12 OCAHO no. 1297 at 15 (citing *New China Buffet Rest.*, 10 OCAHO no. 1133 at 6). Considering Respondent's failure to comply with the employer attestation requirement on every Form I-9, combined with the additional violations not charged in the complaint, the Court finds that Respondent did not try to "reasonably ascertain what the law requires" when completing the Forms I-9. *Snack Attack Deli, Inc.*, 10 OCAHO no. 1137 at 10. Therefore, while neither party argues that the penalty should be aggravated for a lack of good faith, there is no evidence to warrant mitigation of the penalty based this factor. Thus, the Court finds that the good faith factor is neutral.

Complainant treated the seriousness of the violations as a neutral factor. Complainant argues that the failure to sign the attestation in section two is a serious violation. Mot. Summ. Dec. at 12; Supp. Mot. Summ. Dec. at 6–7. While Complainant argues that Respondent's violations are serious, it does not seek to aggravate the penalty based on this factor because Complainant considers the percentage of Forms I-9 containing substantive violations when it calculates the proposed base fine. Supp. Mot. Summ. Dec. at 6. Thus, Complainant contends that if it also aggravated the fine based on this factor it "would be akin to fining Respondent twice for the same reason." *Id.*

OCAHO precedent states, "[f]ailure to ensure that the employee checks a box attesting to his or status in section 1 is serious . . . ." *Metropolitan Enters.*, 12 OCAHO no. 1297 at 16 (citing *U.S. v. Durable, Inc.*, 11 OCAHO no. 1229, 15 (2014)). Further, OCAHO precedent states, "[a]n employer's failure to sign the section 2 attestation is also serious because this is the section that proves the employer reviewed documents sufficient to demonstrate the employee's eligibility to work in the United States." *Durable, Inc.*, 11 OCAHO no. 1229 at 15. Generally, under these facts, the Court could aggravate the penalty; however, Complainant has the burden to prove that an aggravation is warranted. *3679 Commerce Place*, 12 OCAHO no. 1296 at 4. Complainant does not seek an aggravation based on seriousness. Thus, the Court finds that the seriousness factor should be treated as neutral.

Complainant aggravated the penalty for one violation based on the presence of an unauthorized worker, Emiliano Cojon Garcia. Respondent concedes that one worker was unauthorized and submitted false documents to Respondent. Resp. Supp. Mot. Summ. Dec. at 1. Complainant provided the declaration of its auditor, Carl Straker, who inspected Respondent's Forms I-9 and

[3] The following Forms I-9 lacked an the employee's attestation to their status in section one: Christian Abruzzo, Fernan Alzate, Pierre Antoine Armand, Angel Cardenas, Miguel Castellanos, Emiliano Garcia, Roberto Morales, Jose Payamps, Rafael Payamps, Gliford Pierre Louis, Oscar Polo, Alfredo Reyes, Richard Rivera (SSN 4 digits 1030), Richard Rivera (SSN 4 digits 1119), Ravel Rodriguez Wassaff, Christopher Santelises, and Josefina Tavarez. Mot. Summ. Dec., Ex. G-2.

analyzed the forms using three government databases. Supp. Mot. Summ. Dec., Ex. G-9. Mr. Straker stated that when he ran Garcia's name through the three databases, the databases showed that Garcia's name did not match with an alien number or a work authorization card issued by United States Citizenship and Immigration Services. *Id.* at 2. Further, Complainant issued Respondent a notice of suspect documents "informing them that unless the workers listed provided valid documentation for completion of a Form I-9, they would be considered unauthorized." *Id.* Respondent did not submit any new documentation or challenge the finding, and Complainant subsequently terminated Garcia. *Id.* As such, the Court finds that the presence of an unauthorized worker warrants an aggravation of the penalty.

Complainant treated the history of violations as a neutral factor because the record does not indicate that Respondent has a previous history of violations. However, a lack of a history of previous violations, "does not automatically entitle the respondent to mitigation of the civil penalty . . . ." *Red Coach Rest.*, 10 OCAHO no. 1200, 4 (2013) (affirmance by the Chief Administrative Hearing Officer (CAHO)). Under OCAHO precedent, "never having violated the law before does not necessarily warrant additional leniency, and it is still appropriate to treat this factor as a neutral one." *New China Buffet Rest.*, 10 OCAHO no. 1133 at 6. Thus, the Court finds Respondent's lack of history of previous violations is properly treated as a neutral factor.[4]

B. Non-Statutory Factor

Respondent contends that the Court should mitigate the penalties based on its inability to pay. "A party seeking consideration of a non-statutory factor, such as ability to pay the penalty, bears the burden of proof in showing that the factor should be considered as a matter of equity, and that the facts support such a favorable exercise of discretion." *U.S. v. Pegasus Family Rest.*, 12 OCAHO no. 1293, 10 (2016) (citing *U.S. v. Buffalo Transp., Inc.*, 11 OCAHO no. 1263, 11 (2015)). Respondent argues it is no longer in business due to financial hardship as "Respondent's revenue fell far too short of its liabilities . . . ." Resp. Supp. Mot. Summ. Dec. at 2. Respondent did not provide any evidence of its financial situation, notwithstanding the undersigned's instruction to provide evidence of its finances and the undersigned's list of suggested documents that Respondent could file. Order on Liability at 12. Thus, the Court will not mitigate the penalty based on Respondent's alleged inability to pay.

C. Penalty Range

In the Order on Liability, the undersigned found there was an issue of material fact regarding the appropriate penalty range based on the parameters set forth in 28 C.F.R. § 85.5. Order on Liability 8–9. Specifically, the undersigned found there was an issue of material fact relating to the date of the violations and the date of assessment. The applicable penalty range depends on the date of the violations and the date of assessment. *See* § 274a.10(b)(2); § 85.5. If the violation occurred on or before November 2, 2015, the minimum penalty amount is $110 and the maximum is $1100. 8 C.F.R. § 274a.10(b)(2). For violations that occur after November 2, 2015,

[4] In the Order on Liability, the Court mistakenly cited 8 C.F.R. § 274a.10(b)(1)(ii) which is not applicable in this case as it only applies to violations involving knowingly hiring an unauthorized worker.

the adjusted penalty range as set forth in § 85.5 applies. *See* § 85.5. When a violation occurs after November 2, 2015, and the penalty is assessed between February 4, 2017 and January 29, 2018, the minimum penalty amount is $220 and the maximum amount is $2,191. *Id.* If the penalty is assessed after January 29, 2018, the minimum penalty is $224 and the maximum is $2,236. *Id.*

Complainant argues that all of the violations occurred after November 2, 2015 because the violations were paperwork violations, which are continuing violations until cured. OCAHO precedent "establishes that a paperwork violation is not a one-time occurrence, but a continuous violation until corrected." *U.S. v. Rupson of Hyde Park*, 7 OCAHO no. 940, 332 (1997); *U.S. v. W.S.C. Plumbing, Inc*., 9 OCAHO no. 1071, 9 (2001). "[A] verification failure occurs not at a single moment in time, but rather throughout the period of non-compliance." *W.S.C. Plumping, Inc*., 9 OCAHO no. 1071 at 9. A paperwork violation involving the failure to ensure proper completion of section one or failure to properly complete section two continues until the violation is corrected. *U.S. v. Curran Engineering Co., Inc.*, 7 OCAHO 975, 895 (1997). The undersigned previously found that on all twenty-five Forms I-9, Respondent failed to sign the employer certification in section two. Complainant alleges that Respondent has not cured the violations and Respondent did not offer any evidence that it cured the violations. As such, the violations are continuing violations and, therefore, the Court finds the violations occurred after November 2, 2015. The adjusted penalty ranges set forth in § 85.5 are applicable. Complainant's proposed penalties are below the maximum amounts for the 2017 and 2018 adjusted penalty rates, as such, the Court finds the proposed penalty amounts are reasonable.

IV. CONCLUSION

Complainant's Supplemental Motion for Summary Decision is granted. After considering the statutory factors, the unsupported non-statutory factor, and the totality of the evidence, the undersigned finds that Complainant's proposed penalties are reasonable. The penalty amount for twenty-four of the violations is $1,768.90 per violation. The Court finds the penalty amount for one violation is $1,862, as it is aggravated based on the presence of an unauthorized worker. Accordingly, Respondent is liable for $44,315.60 in civil penalties for twenty-five violations of § 1324a.

FINDINGS OF FACT

1. On December 1, 2016, the Department of Homeland Security, Immigration and Customs Enforcement, served Executive Cleaning Services with a Notice of Inspection.

2. On July 28, 2017, the Department of Homeland Security, Immigration and Customs Enforcement, served Executive Cleaning Services with a Notice of Intent to Fine.

3. Executive Cleaning Services failed to properly complete Forms I-9 for twenty-five employees.

4. On October 9, 2018, the undersigned reset the trial date to November 29, 2018 and permitted the parties to file briefing on the penalties issue.

5. Executive Cleaning Services is a small business with no history of previous violations.

6. Executive Cleaning Services hired one unauthorized worker, Emiliano Cojon Garcia.

7. Prior to the investigation, Executive Cleaning had significantly poor rate of compliance with the requirements of 8 U.S.C. § 1324a as it failed to sign section two on 100 percent of its Forms I-9.

8. On seventeen Forms I-9, Executive Cleaning Services failed to ensure the employee attested to his or her authorization to work in the United States.

9. Executive Cleaning did not try to reasonably ascertain what the law requires when completing the Forms I-9 based on its failure to comply with the employer attestation requirement on every Form I-9, and violations of failure to ensure the employee attested to his or her work authorization on seventeen Forms I-9.

CONCLUSIONS OF LAW

1. Executive Cleaning Services is an entity within the meaning of 8 U.S.C. § 1324a(a)(1) (2012).

2. All conditions precedent to the institution of this proceeding have been satisfied.

3. Executive Cleaning Services is liable for twenty-five violations of 8 U.S.C. § 1324a(1)(b).

4. An Administrative Law Judge "shall enter a summary decision for either party if the pleadings, affidavits, material obtained . . . show that there is no genuine issue as to any material fact and that a party is entitled to summary decision." 28 C.F.R. § 68.38(c).

5. "An issue of fact is genuine only if it has a real basis in the record" and "[a] genuine issue of fact is material if, under the governing law, it might affect the outcome of the suit." *Sepahpour v. Unisys, Inc.*, 3 OCAHO no. 500, 1012, 1014 (1993) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–87 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

6. "Once the moving party satisfies its initial burden of demonstrating both the absence of a material factual issue and that the party is entitled to judgment as a matter of law, the nonmoving party must come forward with contravening evidence to avoid summary resolution." *U.S. v. Four Seasons Earthworks, Inc.*, 10 OCAHO no. 1150, 3 (2012) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)).

7. "[T]he party opposing the motion for summary decision 'may not rest upon mere allegations or denials' of its pleadings, but must 'set forth specific facts showing that there is a genuine issue of fact for the hearing.'" *U.S. v. 3679 Commerce Place, Inc. d/b/a Waterstone Grill*, 12 OCAHO no. 1296, 4 (2017) (quoting 28 C.F.R. § 68.38(b)).

8. The Court views all facts and reasonable inferences "in the light most favorable to the non-moving party." *U.S. v. Prima Enters., Inc.*, 4 OCAHO no. 615, 261 (1994) (citations omitted).

9. The Court assesses penalties for paperwork violations in accordance with the parameters set forth in 8 C.F.R. § 274a.10(b)(2) and 28 C.F.R. § 85.5.

10. To determine the appropriate penalty amount, "the following statutory factors must be considered: 1) the size of the employer's business, 2) the employer's good faith, 3) the seriousness of the violations, 4) whether or not the individual was an unauthorized alien, and 5) the employer's history of previous violations." *U.S. v. 3679 Commerce Place, Inc. d/b/a Waterstone Grill*, 12 OCAHO no. 1296, 4 (2017) (citing 8 U.S.C. § 1324a(e)(5)).

11. The government has the burden of proof with respect to penalties and "must prove the existence of an aggravating factor by a preponderance of the evidence." *U.S. v. 3679 Commerce Place, Inc. d/b/a Waterstone Grill*, 12 OCAHO no. 1296, 4 (2017) (citing *U.S. v. March Construction, Inc.*, 10 OCAHO no. 1158, 4 (2012); *U.S. v. Carter*, 7 OCAHO no. 931, 121, 159 (1997)).

12. The Court considers the facts and circumstances of each individual case to determine the weight it should give to each factor. *U.S. v. Metropolitan Enters.*, 12 OCAHO no. 1297, 8 (2017).

13. The Court may also consider other, non-statutory factors as appropriate in the specific case. *U.S. v. 3679 Commerce Place, Inc. d/b/a Waterstone Grill*, 12 OCAHO no. 1296, 4 (2017).

14. The government's "penalty calculations are not binding in OCAHO proceedings, and the [Administrative Law Judge] may examine the penalties *de novo* if appropriate." *U.S. v. Alpine Staffing, Inc.*, 12 OCAHO no. 1303, 10 (2017).

15. The good faith analysis primarily focuses on what steps the employer took *before* the investigation to reasonably ascertain what the law requires and what steps it took to follow the law. *U.S. v. Snack Attack Deli, Inc.*, 10 OCAHO no. 1137, 10 (2010); *U.S. v. New China Buffet Rest.*, 10 OCAHO no. 1133, 5 (2010).

16. A low rate of compliance with the § 1324a requirements, alone, does not warrant a finding of bad faith. *U.S. v. Metropolitan Enters.*, 12 OCAHO no. 1297, 15 (2017) (citing *U.S. v. New China Buffet Rest.*, 10 OCAHO no. 1133, 6 (2010)).

17. OCAHO precedent states, "[f]ailure to ensure that the employee checks a box attesting to his or her status in section 1 is serious . . . ." *U.S. v. Metropolitan Enters.*, 12 OCAHO no. 1297, 16 (2017) (citing *U.S. v. Durable, Inc.*, 11 OCAHO no. 1229, 15 (2014)).

18. "An employer's failure to sign the section two attestation is also serious because this is the section that proves the employer reviewed documents sufficient to demonstrate the employee's eligibility to work in the United States." *U.S. v. Pegasus Family Rest. Inc.*, 12 OCAHO no. 1293, 9 (2016) (quoting *U.S. v. Durable, Inc.*, 11 OCAHO no. 1229, 15 (2014)).

19. Under OCAHO precedent, "never having violated the law before does not necessarily warrant additional leniency, and it is still appropriate to treat [the history of violations factor] as a neutral one." *U.S. v. New China Buffet Rest.*, 10 OCAHO no. 1133, 6 (2010).

20. A party seeking consideration of a non-statutory factor has the burden of proof and must show "that the factor should be considered as a matter of equity, and that the facts support such a favorable exercise of discretion." *U.S. v. Pegasus Family Rest.*, 12 OCAHO no. 1293, 10 (2016) (citing *U.S. v. Buffalo Transp., Inc.*, 11 OCAHO no. 1263, 11 (2015)).

21. If the § 1324a violation occurred on or before November 2, 2015, the minimum penalty amount is $110 and the maximum is $1100. 8 C.F.R. § 274a.10(b)(2).

22. When a violation occurs after November 2, 2015 and the penalty is assessed between February 4, 2017 and January 29, 2018, the minimum penalty is $220 and the maximum penalty is $2,191. If the penalty is assessed after January 29, 2018, the minimum penalty is $224 and the maximum penalty is $2,236. 28 C.F.R. § 85.5.

23. Paperwork violations, such as failure to complete section two, are continuing violations until cured. *U.S. v. Curran Engineering Co., Inc.*, 7 OCAHO 975, 895 (1997).

To the extent that any statement of fact is deemed to be a conclusion of law or any conclusion of law is deemed to be a statement of fact, the same is so denominated as if set forth as such.

ORDER

Complainant's Motion for Summary Decision is **GRANTED.** Respondent is liable for twenty-five violations of § 1324a(a)(1)(B) and is directed to pay civil penalties in the total amount of $44,315.60. The parties are free to establish a payment schedule to minimize the impact of the penalty on the operations of the company.

SO ORDERED.

Dated and entered on December 21, 2018.

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Priscilla M. Rae
Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.