

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

September 29, 2022

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2022A00053
)	
BLACK BELT SECURITY &)	
INVESTIGATIONS, LLC,)	
Respondent.)	
)	

Appearances: Stephanie Robins, Esq., for Complainant
Eldridge Hawkins, Sr., Esq., on behalf of Respondent¹

ORDER GRANTING EXTENSION OF TIME TO FILE ANSWER

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on August 18, 2022. Complainant alleges that Respondent, Black Belt Security & Investigations, LLC, failed to prepare and/or present Forms I-9 for fifty individuals, in violation of 8 U.S.C. § 1324a(a)(1)(B).

On August 22, 2022, this office sent Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), a copy of the complaint, the Notice of Intent to Fine (NIF), and Respondent's request for a hearing, via U.S. certified mail. According to the United States Postal Service, these documents were served upon Respondent on August 25, 2022, making Respondent's answer due on September 26, 2022. *See* 28 C.F.R. § 68.9.

¹ The Court observes that Eldridge Hawkins, Sr., filed the request for a hearing on behalf of Black Belt Security & Investigations, LLC on November 15, 2021, whereas Eldridge Hawkins, II, filed the instant extension request. Compl. ¶ Ex. B; Resp't Ext. Req. OCAHO regulations, contained at 28 C.F.R. pt. 68 (2022), provide that an attorney admitted to practice and in good standing may represent a party in OCAHO proceedings. 28 C.F.R. § 68.33(c)(1). The OCAHO regulations also permit a partner or general officer to appear on behalf of the company. *See* § 68.33(c)(3)(iv). In either instance, the representative or representatives must file a notice of appearance. *See* § 68.33(f). The Court hereby ORDERS the person(s) intending to represent the company in these proceedings to file a notice of appearance that comports with § 68.33(f), and clarify their relationship to Respondent.

On September 27, 2022, this office received a Request to Extend Time to File Respondent's Answer to the Complaint and Certification in Support, dated September 19, 2022 and signed by Eldridge Hawkins. In its filing, Respondent represents that it is currently engaged in settlement negotiations with ICE. Resp't Ext. Req. ¶ 1; *see id.* ¶ 2–4 (attached communications between Respondent and ICE in reference to OCAHO case). Accordingly, Respondent requests either a ninety day extension of time from the date of its filing, or a sixty day extension of time from the termination of settlement negotiations, to file an answer. *Id.* ¶ 1. Complainant does not appear to oppose an extension of time to file an answer. *See id.* ¶ 2 (positing “If you are worried about the 30 day deadline, I suggest you file for an extension with OCAHO[.]”).

“OCAHO rules do not provide specific standards for granting extensions, but the standard routinely applied is good cause.” *Tingling v. City of Richmond*, 13 OCAHO no. 1324c, 2 (citations omitted).² Good cause requires “a demonstration of good faith on the part of the party seeking an enlargement of time and some reasonable basis for noncompliance with the time specified in the rule.” *Id.* (citations omitted).

The Court finds that Respondent has demonstrated good cause for its delay in filing an answer; that is, to facilitate the ongoing settlement negotiations. Accordingly, the Court will GRANT Respondent an extension of time to file an answer. Respondent may file its answer no later than sixty (60) days from the issuance of this Order.

If the parties enter into a settlement agreement before the reset answer deadline, they shall follow the procedures set forth at 28 C.F.R. § 68.14 to seek dismissal of the action. If a settlement is not reached during that time, the Court cautions that a failure to answer by the reset deadline “may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint,” and the ALJ “may enter a judgment by default.” 28 C.F.R. § 68.9(b).

SO ORDERED.

Dated and entered on September 29, 2022.

Honorable Jean C. King
Chief Administrative Law Judge

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>.