

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

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2024A00061
)	
GRAHAM AND ROLLINS, INC.,)	
Respondent.)	
)	

Appearances: Kathryn J.H. Boardman, Esq., for Complainant
Terri Graham Wallace, corporate representative for Respondent

ORDER TO SHOW CAUSE

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Control and Reform Act of 1986 (IRCA), 8 U.S.C. §1324a. Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) against Respondent, Graham and Rollins, Incorporated, on March 6, 2024. Complainant alleges that Respondent failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for nine employees, and failed to ensure that the employee properly completed Section 1 and/or failed to properly complete Section 2 or 3 of the Form I-9 (substantive paperwork violations) for two employees, in violation of 8 U.S.C. § 1324a(a)(1)(B).

On March 18, 2024, the Chief Administrative Hearing Officer (CAHO) sent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA) and a copy of the Complaint (the “Complaint package”) to the parties by United States Postal Service (USPS) certified mail. According to the USPS tracking service website, the Complaint package sent to Respondent was delivered to a “front desk/reception/mail room” on March 21, 2024. The Court also received a signed PS Form 3811, Domestic Return Receipt dated March 21, 2024 for the Complaint package sent to Respondent. Therefore, an answer to the complaint was due no later than April 20, 2024. *See* 28 C.F.R. § 68.3(a), 68.9(a).¹ To date, Respondent has not filed an answer.

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

Under the OCAHO Rules of Practice and Procedure, to contest a material fact alleged in the complaint or a penalty assessment, a respondent must file an answer. 28 C.F.R. § 68.9(c). Failure to file an answer “within the time provided may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint. The Administrative Law Judge may enter a judgment by default.” 28 C.F.R. § 68.9(b). Further, “failure to respond to an Order may trigger a judgment by default.” United States v. Hotel Valet Inc., 6 OCAHO no. 849, 252, 254 (1996).² “If a default judgment is entered, the request for hearing is dismissed, AND judgment is entered for the complainant without a hearing.” Nickman v. Mesa Air Grp., 9 OCAHO no. 1106, 1 (2004) (emphasis in original).

However, it has long been OCAHO’s practice to issue an order to show cause before entering a default. See United States v. Shine Auto Serv., 1 OCAHO no. 70, 444 (1989) (Vacating order denying default judgment).

Respondent’s answer was due April 20, 2024, and to date, Respondent has not filed an answer. Accordingly, Respondent is ORDERED to file an answer, pursuant to 28 C.F.R. § 68.9(c), within 21 days of the date of this Order. Respondent is FURTHER ORDERED to file a submission that demonstrates good cause for its failure to timely file an answer, within 21 days of the date of this Order.

Should Respondent fail to file to respond as ordered or cannot show good cause, the Court may enter a default judgment against Respondent, pursuant to 28 C.F.R. § 68.9(b). The Court may also find that the Respondent has abandoned its request for a hearing before an Administrative Law Judge and dismiss the request for a hearing. See 28 C.F.R. § 68.37(b).

² Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, 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 through the Westlaw database “FIM OCAHO,” the LexisNexis database “OCAHO,” and on the United States Department of Justice’s website: <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

SO ORDERED.

Dated and entered May 9, 2024.

John A. Henderson
Administrative Law Judge