

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

May 19, 2025

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
	)	
v.	)	8 U.S.C. § 1324a Proceeding
	)	OCAHO Case No. 2024A00015
	)	
ZARCO HOTELS INCORPORATED,	)	
Respondent.	)	
	)	

Appearances: Jodie D. Cohen, Esq., for Complainant
Kian Zarrinnam, pro se Respondent

ORDER RESOLVING CROSS-MOTIONS TO COMPEL DISCOVERY

This case arises under the employer sanctions provisions of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324b.

On November 9, 2023, 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, Zarco Hotels Incorporated.

On October 24, 2024, the Court granted Complainant's motion to amend the complaint. *United States v. Zarco Hotels Inc.*, 18 OCAHO no. 1581d (2024).¹ Respondent then filed its Answer to First Amended Complaint on November 20, 2024.

¹ 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

On March 11, 2025, both parties filed their respective Motions to Compel Discovery with exhibits. Respondent filed its Opposition to Complainant's motion on March 14, 2025, while Complainant filed its own Opposition on March 17, 2025. This Order resolves the issues raised in these motions and will compel discovery or decline to do so as noted below.

I. PREDICATE REGULATORY REQUIREMENTS – LAW & ANALYSIS

Before reviewing the substance of any motion to compel, the Court must first determine whether the motion is procedurally compliant with OCAHO's regulations.

A. Motions to Compel (Summary)

Complainant seeks to compel responses to Request for Interrogatories Nos. 2, 6, 7, and 8, and Request for Production Nos. 1–7, 9, and 14–18. Complainant Mot. Compel 2. Complainant includes in its filing Respondent's objections to its discovery requests and provides argument as to why it is entitled to the requested discovery. *Id.* at 3; Ex. B. Complainant also includes evidence that it attempted to resolve discovery disputes before filing the motion. *Id.* Exs. C, D.

Similarly, Respondent's motion seeks to compel responses to its Request for Interrogatories Nos. 3–8, Request for Production Nos. 9–12 and 16, and Request for Admissions Nos. 11a, b, and c. Resp't Mot. Compel 3–4. Respondent includes Complainant's objections to its requests and argument as to why it is entitled to the discovery. *Id.* at 4; Ex. 2. Respondent also includes evidence that it attempted to resolve discovery disputes before filing the motion. *Id.* Ex. 3.

B. Both Motions Meet Regulatory Requirements

OCAHO's Rules allow a party to move the Court to compel a response or inspection related to a discovery request when the opposing party "fails to respond adequately or objects to the requests or to any part thereof." 28 C.F.R. § 68.23(a).² The motion to compel must include:

- (1) The nature of the questions or request;
- (2) The response or objections of the party upon whom the request was served;
- (3) Arguments in support of the motion; and
- (4) A certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure information or material without action by the Administrative Law Judge.

28 C.F.R. § 68.23(b).

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>.

² OCAHO's Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2024).

The Motions to Compel comply with the regulatory requirements of 28 C.F.R. § 68.23(b). They outline the requests with sufficient specificity; provide the opposing party's objections; contain arguments in support of parties' respective positions; and provide evidence the parties met and conferred.

II. COMPELLING DISCOVERY GENERALLY

"Litigants 'may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter in the proceeding' unless the Administrative Law Judge (ALJ) limits discovery by order. *United States v. Terrapower, LLC*, 19 OCAHO no. 1548f, 4 (2025) (quoting 28 C.F.R. § 68.18(b)). "Relevance broadly encompass[es] any matter that bears on, or that could reasonably lead to other matter that could bear on, an issue that is or may be in the case." *A.S. v. Amazon Webservices Inc.*, 14 OCAHO no. 1381j, 4–5 (2022) (internal quotations omitted). "In evaluating discovery requests and party responses, the Court must carefully evaluate the temporal scope of the request." *Terrapower, LLC*, 19 OCAHO no. 1548f, at 11 n.12.

An objecting party bears "the burden of showing the objection is justified." 28 C.F.R. § 68.23(a). These objections must be articulated "in specific terms" that demonstrate their justification. *United States v. Employer Sols. Staffing Grp. II, LLC*, 11 OCAHO no. 1234, 3 (2014) (internal quotations omitted). "Generalized or conclusory assertions of irrelevance, overbreadth, or undue burden are not sufficient to constitute objections." *United States v. Allen Holdings, Inc.*, 9 OCAHO no. 1059, 5 (2000). "Should the Administrative Law Judge (ALJ) find that an objection is unjustified..., 'he or she may order either that the matter...'" *Saini v. Sheridan Cmty. Hosp.*, 21 OCAHO no. 1644c, 2 (2025) (quoting 28 C.F.R. § 68.23(a)).

III. COMPLAINANT REQUESTS AT ISSUE & RESPONDENT OBJECTIONS

Complainant seeks an order compelling Respondent to answer several interrogatories, all of which are outlined below.

A. Interrogatory No. 2

Interrogatory No. 2 reads as follows:

During the past five years, has Respondent been a party to any administrative, civil, or criminal proceeding? If so, please identify the proceeding by court and case number, and general subject matter, and further identify any employee, officer, director, or shareholder who had given sworn testimony in court or by deposition.

Complainant's Mot. Compel, Ex. A.

Respondent objects to this interrogatory as “vague, ambiguous and overly broad and calls for the disclosure of information that is neither relevant to the subject matter and issues in dispute in this proceeding, nor reasonably calculated to the discovery of admissible evidence.” *Id.* Ex. B. Respondent also notes to the extent such information exists, it may move for a protective order in advance of disclosing such information. *Id.*

Complainant defends this interrogatory in its motion by stating the requested information is “relevant to the contested issues and will lead to discoverable information . . . [and bears on liability]” Complainant Mot. Compel 3. Complainant also asserts this information may tend to prove or disprove the status of three individuals as owners vice employees of Respondent business, or that it may prove or disprove whether Respondent used a “professional employment agency.” *Id.*

The Court finds the interrogatory is not vague or ambiguous, rather it is specific in its terms, and asks for a discrete list of proceedings and seeks to divine who, within Respondent business, participated in those proceedings. The interrogatory is limited to the past five years. While certain aspects of other proceedings may not be relevant to this case, how (or in what capacity) individuals from Respondent business participated in proceedings may be bear on liability here.

Respondent is ORDERED to respond to Interrogatory No. 2.

Respondent may move for a protective order, but should be aware of the procedure and rationale for such a request.³ Any motion related to protective orders must be filed by June 30, 2025.

If Respondent does not move for a protective order (or does not do so timely), Respondent must provide the responsive information to this interrogatory by July 30, 2025.

³ Under OCAHO’s Rules, an Administrative Law Judge “has discretion to issue a protective order ‘to protect a party or person from annoyance, harassment, embarrassment, oppression, or undue burden or expense’ if the moving party demonstrates ‘good cause.’” *United States v. Facebook, Inc.*, 14 OCAHO no. 1386a, 2 (2021) (quoting 28 C.F.R. § 68.18(c)). “[T]he party seeking the protective order has the burden of showing that good cause actually exists.” *United States v. Emp. Sols. Staffing Grp. II, LLC*, 11 OCAHO no. 1234, 4 (2014). This Court has noted that 28 C.F.R. § 68.18(c) “is clearly similar to Rule 26(c) of the Federal Rules of Civil Procedure.” *In re Investigation of Conoco, Inc.*, 8 OCAHO no. 1049, 738, 743 (2000).

OCAHO case law has held that a party establishes good cause when it “present[s] particular and specific facts as to why it needs a protective order,” whereas “[b]road allegations of harm, unsubstantiated by specific examples or articulated reasoning, do not support a good cause showing.” *Tingling v. City of Richmond*, 13 OCAHO no. 1324, 2 (2019) (quoting *Webb v. Green Tree Servicing, LLC*, 283 F.R.D. 276, 278 (D. Md. 2012)). Similarly, the Ninth Circuit has held that good cause exists for a protective order where the moving party shows “specific prejudice or harm will result if no protective order is granted.” *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th Cir. 2002).

B. Interrogatory No. 6

Interrogatory No. 6 reads as follows:

Identify any and all compensation, in whatever form, received by owners Hildegard Zarrinnam, Jeff Zarrinnam, and Kian Zarrinnam from the date of incorporation to present.

Complainant's Mot. Compel, Ex. A.

Respondent recycled its objections from Interrogatory No. 2 to this interrogatory. *Id.* Ex. B.

Complainant recycled its rationale for seeking the information over Respondent's objection. Mot. P. 3.

This interrogatory is more temporally expansive (from date of incorporation). It also uses expansive adjectives to modify "compensation" (i.e. "any and all"). While it is Respondent's burden to provide a viable objection, the Court is mindful of his pro se status, and his assertion that this request is overbroad has merit. According to discovery responses included in Complainant's motion, Complainant may believe Respondent business registered as such in 1994, with a NOI served almost 25 years later. Complainant also does not, in its argument, assist the Court in understanding the relevance of this information. Assuming this interrogatory is vectored towards the employment (or ownership status) of three individuals, it is worth noting owners and employees may be compensated in similar ways or in different ways. Compensation may or not be dispositive evidence of that status.

Respondent is not ordered to respond to Interrogatory No. 6.

C. Interrogatory No. 7

Interrogatory No. 7 reads as follows:

If you intend to raise any affirmative defenses at the hearing on this matter, please identify each affirmative defense and:

- a. Fully state the factual basis for the affirmative defense, including all facts which support it or tend to support it;
- b. Identify each person who has or claims to have knowledge of the facts referred to in subpart "a" of this interrogatory; and
- c. Identify and produce each document which supports or tends to support the theory of law.

Complainant's Mot. Compel, Ex. A.

Respondent objects to this interrogatory on the grounds that "it requests information that is vague, ambiguous and overly broad and calls for the disclosure of information/documents protected by

the Attorney-Client Privilege and/or Attorney Work Product Doctrine.” *Id.* Ex. B. Respondent also notes to the extent such information exists, it may move for a protective order in advance of disclosing such information. *Id.*

The Court will first consider issues of privilege raised by Respondent. “[A] party asserting a privilege has the burden of demonstrating its applicability.” *Tingling v. City of Richmond*, 13 OCAHO no. 1324b, 3 (2021) (quoting *NLRB v. Interbake Foods, LLC*, 637 F.3d 492, 502 (4th Cir. 2011)). “For the party asserting the privilege to meet its burden, it ‘must present more than a bare conclusion or statement that the documents sought are privileged. Otherwise, the [asserting party], not the court, would have the power to determine the availability of the privilege.’” *United States v. Terrapower, LLC*, 19 OCAHO no. 1548f, 13 (2025) (quoting *Redlands Soccer Club v. Dep’t of the Army*, 55 F.3d 827, 854 (3d Cir. 1995)).

Respondent has not sufficiently demonstrated the applicability of either privilege.

Respondent is pro se and does not explain whether he made “confidential communications . . . to a lawyer . . . ‘for the primary purpose of securing either legal opinion or legal services, or assistance in some legal proceeding.’” *Terrapower, LLC*, 19 OCAHO no. 1548f, at 13. Consequently, he cannot carry his burden to establish this privilege.

While Respondent references an “Attorney Work Product Doctrine,” his narrow title belies the slightly more expansive coverage of the actual work product privilege outlined in Federal Rule of Civil Procedure 26(b)(3).

A party may not obtain discovery of “documents and tangible things” prepared by another party in anticipation of litigation . . . [unless that party can meet certain showings and criteria].” Fed. R. Civ. P. 26(b)(3). Additionally, discovery of “the mental impressions, conclusions, opinions or legal theories [of a litigant]⁴ concerning the litigation” is prohibited under all circumstances. *Id.*

In considering this interrogatory, the Court first notes that Respondent, in its Answer(s) generally denies liability, but he does not expressly identify proposed affirmative defenses. Additionally, the Court is also mindful of Federal Rule 26(a)(1)(A), which outlines initial disclosures.⁵ These disclosures include:

- (i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

⁴ Parties proceeding pro se may assert the work product doctrine to protect matters they prepared in anticipation of litigation. *Dowden v. Superior Ct.*, 73 Cal. App. 4th 126 (Cal. Ct. App. 1999).

⁵ It is at the discretion of the Court to decide whether to require parties provide initial disclosures or not. Here parties were not required to provide them.

- (ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment. . . .

While the best course of action may have been to cite the language of the Federal Rule, Complainant appears to be requesting the functional equivalent of initial disclosures. This information (including responsive documents) is relevant, and its production is not objectionable.

Respondent is ORDERED to respond to Interrogatory No. 7.

Respondent may move for a protective order, but should be aware of the procedure and rationale for such a request.⁶ Any motion related to protective orders must be filed by June 30, 2025.

If Respondent does not move for a protective order (or does not do so timely), Respondent must provide the responsive information to this interrogatory by July 30, 2025.

D. Interrogatory No. 8

Interrogatory No. 8 reads as follows:

Identify all witnesses, including rebuttal witnesses, you may present at the hearing on this matter and describe in detail their anticipated testimony.

Complainant's Mot. Compel, Ex. A.

Respondent objects to this interrogatory on the grounds that “it requests information that is vague, ambiguous and overly broad and calls for the disclosure of information/documents protected by the Attorney-Client Privilege and/or Attorney Work Product Doctrine.” *Id.* Ex. B. Respondent also notes to the extent such information exists, it may move for a protective order in advance of disclosing such information. *Id.*

As to Respondent's assertions of “Attorney-Client Privilege,” and “Attorney Work Product Doctrine,” the Court's analysis and conclusions pertaining to Interrogatory No. 7 apply in the same way to Interrogatory No. 8.

Complainant appears to seek the functional equivalent of pretrial disclosures as outlined in Federal Rule of Civil Procedure 26(a)(3). Note that while these disclosures are not typically ordered at

⁶ See *supra* note 3.

this stage of OCAHO proceedings,⁷ the information typically contained in pretrial disclosures is certainly discoverable. Germane to this interrogatory, the Federal Rule states:

A party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:

(i) the name and, if not previously provided, the address and telephone number of each witness—separately identifying those the party expects to present and those it may call if the need arises

Fed. R. of Civ. P. 26(a)(3)(i).

Respondent is ORDERED to respond to Interrogatory No. 8.

Respondent may move for a protective order, but should be aware of the procedure and rationale for such a request.⁸ Any motion related to protective orders must be filed by June 30, 2025.

If Respondent does not move for a protective order (or does not do so timely), Respondent must provide the responsive information to this interrogatory by July 30, 2025.

E. Requests for Production

Requests for Production Nos. 1–7, 9, and 15–18 ask for business and financial records for Respondent, from the date of its incorporation (1994) to the present.

As to financial records, the requests seek “any and all” of the following kinds of documents: documents that list and/or identify the Respondent’s “assets, liabilities, profits, losses, income and expenses . . . bank statements, bank reconciliations, and cancelled checks . . . brokerage or investment statements . . . Internal Revenue Service (IRS) documentation . . . State of California tax documentation . . . payroll statements and/or payroll tax reports . . . [and] documents prepared for and/or submitted in furtherance of any loan/financing applications of Respondent.” Complainant Mot. Compel Ex. A.

As to corporate business records, the requests seek the following kinds of documents: “any updated or amended Articles of Incorporation . . . any and all of the Respondent’s insurance policies . . . any and all wage and earning statements, pay stubs, pay roll records, checks, receipts, or other documents indicating the date and/or amount of compensation provided to [H.Z], [J.Z.], and [K.Z.] from the date of incorporation to the present . . . any and all documents recording the hours and/or work performed for each employee and/or corporate officer of the Respondent . . .

⁷ Pretrial disclosures are typically required by the undersigned only after dispositive motions have been adjudicated.

⁸ See *supra* note 3.

[and] any and all federal tax returns related to Respondent's registered agents and owners [H.Z], [J.Z.], and [K.Z.] from date of incorporation to the present." *Id.*

There is no record of Respondent's specific objection to each Request for Production; rather, Respondent's opposition filing notes general objections in its Opposition to Complainant's Motion to Compel. Respondent, who is pro se, argues relevance and characterizes these requests as creating an undue burden. Resp't Opp'n 5. Additionally, Respondent describes the request as "disproportionately" expansive relative to the proposed penalty. *Id.* Respondent also expresses concern about the "sensitive" nature of the requested "personnel and employment records," arguing disclosure could result in "undue hardship to Respondent and its employees." *Id.* Finally, Respondent argues it previously provided "all relevant information under objection to provide third party contracts showing the Respondent is the incorrect party in this case . . . and that they are shareholders, officers and directors of the company which by law do not need to provide or fill out Form I-9." *Id.* at 5–6.

Complainant defends its requests for production, arguing "the requested information is relevant to the contested issues and will lead to discoverable information." Complainant Mot. Compel 3. In Complainant's view, this information is necessary to disprove affirmative defenses related to whether three individuals are owners vice employees and whether remaining individuals were employees of a third-party employment agency. *Id.*

To a degree, both parties are correct. Some portion of the documents requested may be relevant, but the scope is far too expansive. Documents which would tend to prove or disprove liability are relevant and should be produced. "Any and all" financial and business documents over a 30-year period is both overbroad and unduly burdensome relative to the proposed assessed penalty.

To assist the parties, the Court will craft a properly scoped description of discoverable documents, with several caveats. Even if Respondent feels these documents have been previously provided, it is ordered to provide them anew to reduce confusion and additional motion practice on this point.

1. To the extent Respondent seeks to place evidence in the record pertaining to an "employment vice ownership" status of the three named individuals, it must provide (if they exist) the following documents: any documents memorializing the incorporation of the business (to include any updates or amendments), and any personnel, tax, or pay documents for the three named individuals.
2. To the extent Respondent seeks to place evidence in the record pertaining to the prospect of some individuals employment with or through a third party entity (i.e. those individuals were not employed by Respondent), it must provide (if they exist) the following documents: any contracts or agreements with that third party entity, any correspondence between Respondent and that third party entity pertaining to such a business arrangement, any documents which reflect payment to that third party entity, and any documents which reflect the full name, address, and contact information for that third party entity.
3. To the extent Respondent seeks to place evidence in the record pertaining to the proposed penalty amount, and its ability to pay the assessed amount, it must provide its most recent corporate tax return and audited financial statements.

Respondent may move for a protective order, but should be aware of the procedure and rationale for such a request.⁹ Any motion related to protective orders must be filed by June 30, 2025.

If Respondent does not move for a protective order (or does not do so timely), Respondent must provide the responsive information to this interrogatory by July 30, 2025.

IV. RESPONDENT REQUESTS AT ISSUE & COMPLAINANT OBJECTIONS

A. Respondent's Interrogatories

Interrogatories Nos. 3–5 and 8 request information about the government auditors who investigated Respondent-business. Specifically, they request: “the name, job title or position, CV or resume, experience and current address of the individual or individuals who are or have been responsible for conducting HSI audits . . . against Respondent,” as well as for those “who are or have been responsible for examining documentation verifying identity and employment eligibility of perspective ICE audits . . . any and all compensation, bonus, incentives in whatever form, received by HSI Auditors [B.K.],[L.S.], Supervisors, Complainant’s staff, and any other ICE agent or auditor owners from the date of NOI to present”; and information regarding the “business relationship” between [B.K., L.S.], other HSI auditors, and the Department of Homeland Security, specifically, whether they were hired, and if so, their “specific duties, compensation, incentives, [and] bonus structure.” Resp’t Mot. Compel Ex. 1.

Interrogatories Nos. 6–7 ask Complainant to: “identify each theory of law” it plans to raise at a hearing, as well as the factual basis for each theory, the individuals who have knowledge of facts related to each theory, and any documents supporting each theory, and “identify all witnesses,¹⁰ whistleblowers, etc. including rebuttal witnesses, you may present at the hearing on this matter and describe in detail their anticipated testimony.” Resp’t Mot. Compel Ex. 1.

The Complainant lodged the same objection to each Respondent request: “DHS objects to this request insofar as it seeks documents protected by a claim of privilege, including but not limited to deliberative process privilege, law enforcement privilege and/or attorney work product doctrine.” Resp’t Mot. Compel Ex. 1. Regarding the request for information related to the auditors’ compensation, the government argues the request is “unduly burdensome and overbroad in scope and is not reasonably calculated to lead to the discovery of admissible evidence,” as “DHS is not a business entity.” *Id.*

⁹ See *supra* note 3.

¹⁰ In response to Interrogatory No. 7, Complainant did identify Mr. [B.K.], an HSI auditor, as a hearing witness. Mr. [B.K.] “will testify that he conducted an audit of Respondent and requested Form I-9’s be presented and prepared in accordance with regulations, and requested that they be properly amended.” Resp’t Mot. Compel Ex. 1.

In considering the disparity in resources and expertise between a pro se litigant business and the United States, alongside principles of equity and fairness, the Court will interpret some of the Respondent's interrogatories as an attempt to trigger the very same Federal Rules of Civil Procedure 26(a) provisions identified above. Just as this information is discoverable by Complainant, so too, it is discoverable by Respondent. Further, Complainant cites privilege; however, it "has the burden to demonstrate the privilege applies," and it "must present more than a bare conclusion or statement that the documents sought are privileged." *United States v. Garza*, 4 OCAHO no. 644, 472, 477 (1994); *Redlands Soccer Club*, 55 F.3d at 854.¹¹

Complainant is ORDERED to provide:

1. **"The name and, if known, the [business] address and [business] telephone number of each individual likely to have discoverable information¹²—along with the subject of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment; [and] a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment." Fed. R. Civ P. 26(a)(1)(A)(i)–(ii).**
2. **Personnel information about Auditor B.K., specifically information pertaining to: his status as a government employee¹³ or contractor, his length of service, general educational or professional background,¹⁴ a position description document for his position, whether he has had any unsatisfactory performance appraisals, and whether and when (from date of NOI to present) he has received any professional performance-based recognition (like non-recurring bonuses or other non-monetary awards (i.e. time-off awards)).**

Complainant must provide responsive information by July 30, 2025. The same deadline (June 30, 2025) and instructions for protective orders apply to the Complainant as well.

¹¹ See also Federal Rule of Civil Procedure 26(b)(5); see generally *Terrapower, LLC*, 19 OCAHO no. 1548f.

¹² Complainant is cautioned that the list of individuals "likely to have discoverable information," is potentially more expansive than just the auditor, as it may include anyone tangentially involved in the audit and possibly those who directly supervise individuals tangentially involved in the audit.

¹³ The auditor's pay or compensation does not appear to be relevant to these proceedings; however, to the extent he is a civil servant, pay information (to include pay scale and locality pay) is readily available online. See generally U.S. Office of Personnel Management website: <https://www.opm.gov/policy-data-oversight/pay-leave/> (last visited May 15, 2025).

¹⁴ For example, whether he has any bachelor's or advanced degrees and if so, in what discipline and the year completed.

B. Respondent Requests for Production No. 9, 10, 11

Respondent requests: “[a]ny and all reports or forms filed with the United States of America and/or State of California not previously requested herein, including without limitation, reports and forms related to the compensation, incentives, bonus, budgets, forecasts, etc. from date of NOI to present . . . Complainant’s Form W-4, Employee’s Withholding Allowance Certificate, received from date of NOI to the present . . . [and] [a]ny and all contracts where the Complainant is a party” Resp’t Mot. Compel Ex. 1.

Complainant objected to these requests as “unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.” Complainant Opp’n Ex. C.

Respondent defends this request by arguing “the requested information is relevant to the contested issues and will lead to discoverable information. Specifically, to the investigating Agent, [B.K.], and why he did not accept all the Form I9 at the time of the investigation over four years ago[.]” Resp’t Mot. Compel 4.

This request is unduly burdensome. The Court takes official notice that “ICE has over 21,000 employees deployed across all 50 states, the District of Columbia, and in 57 countries.” U.S. Dep’t Homeland Security, U.S. Immigration and Customs Enforcement, Budget Overview – Fiscal Year 2024 at 7; *see also* 28 C.F.R. § 68.41 (“Official notice may be taken of any material fact, not appearing in the record, which is among the traditional matters of judicial notice.”). Further, the Respondent’s rationale for such a request is not linked in any way to the specific audit of his specific business, thus it is unlikely to lead to relevant information.

Complainant is not ordered to respond to Requests for Production Nos. 9–11.

C. Request for Production No. 12

Request for Production No. 12 asks for “[a]ny and all of Complainant’s wage and earning statements, pay stubs, payroll records, checks, receipts, or other documents indicating the date and/or amount of compensation provided to [HSI], [B.K.] auditor and any other staff member from [HSI], from the date of NOI to the present.” Resp’t Mot. Compel Ex. 1.

Complainant objects to this request as “unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.” Resp’t Mot. Compel Ex. 2.

Respondent defends its request by arguing the requested information will show why the DHS investigator “did not accept all the Form I9 at the time of the investigation over four years ago, under whose authority was he harassing, bullying, and asking the Respondent to commit fraud and . . . why he didn’t provide and allow the Respondent to speak to any of his supervisors to get further clarification.” Resp’t Mot. Compel 4.

The request seeks pay documents for both the auditor who conducted the audit in this case and “any other staff member from [HSI].” As to the second group of people, this request (like the

Requests for Production Nos. 9, 10, and 11) is unduly burdensome and does not meet the relevance standards outlined above.

As to pay documents pertaining to the auditor who audited Respondent business, the request is not unduly burdensome; however, the documents sought are not relevant to these proceedings, particularly in light of the Court's Order here, where it identified baseline relevant personnel information about this auditor.

Complainant is not ordered to respond to Request for Production No. 12.

D. Request for Production No. 16

Request for Production No. 16 asks for “[a]ny and all correspondence, memos, emails, letters related to complainant’s registered agents and owners of HSI, [B.K.], [L.S.], HSI supervisors, and any other HSI staff member and/or employee from date of NOI to the present.” Resp’t Mot. Compel Ex. 1.

Complainant objects to this request as “unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.” Resp’t Mot. Compel Ex. 2. It also asserts the documents are protected by several privileges, “including but not limited to deliberative process privilege, law enforcement investigative privilege and/or attorney work product doctrine.” *Id.*

Respondent again defends its request by arguing the documents are necessary to ascertain why the DHS investigator did not accept the Forms I-9 it provided, why he allegedly asked Respondent “to commit fraud,” and why he did not provide Respondent with contact information for his supervisors. Resp’t Mot. Compel 4.

As drafted, this Request is indeed overbroad and unduly burdensome; however, bearing in mind this Complainant is pro se, and bearing in mind that direction from the Court will assist the parties in concluding discovery, the Court will order Complainant to produce a limited set of correspondence documents pertaining to this investigation and this case.¹⁵ In producing this correspondence (if it exists), Complainant may apply redactions to personally identifiable information (PII), and may decline to provide communications that are covered by attorney-client privilege (but any redactions for this reason must be annotated appropriately). The Court expects Complainant counsel to provide documents in a manner consistent with the principles and analysis outlined in *Terrapower*. 19 OCAHO no. 1548f.

Complainant is ORDERED to conduct a search for documents with a date range of “NOI to present” using search terms including Respondent business name or the Respondent’s representative name in the email accounts and electronic files of Mr. [B.K.] and Ms. [L.S.], and provide to Respondent those responsive documents.

¹⁵ Additionally, while Complainant asserts several privileges apply to the requested documents, no explanation was provided as to their application beyond mere assertions. As explained above, this is insufficient to carry Complainant’s burden when asserting a privilege. *See supra* 11.

E. Requests for Admission No. 11

Request for Admission No. 11 is several distinct requests. Resp't Mot. Compel 3–4. The requests ask Complainant to admit or deny that:

On August 23, 2021, Respondent addresse[d] [B.K.] email dated August 13, 2021, again which he persistently pressured, harassed, intimidated, and threatened the Respondent to commit fraud by instructing the Respondent to enter information on each individual Form I-9 that was from a different legal entity (i.e. CPE) and Respondent was willing to provide [B.K.] with the proper Form I-9's for these individuals from the Respondent. However, [B.K.] refused to accept or to further investigate these I-9 forms. Respondent further asks to provide him with the email address and phone number of [B.K.] Supervisor. . . .

From August 23, 2021, to May 08, 2023, [B.K.] no longer communicated with the Respondent and does not provide the Respondent with his Supervisors name, email address and/or phone number.

Resp't Mot. Compel Ex. 1.

In response to these requests, Complainant admitted that the auditor did not provide contact information for his supervisor but denied the request in part, adding that “[o]n September 1, 2021, Auditor [B.K.] sent Respondent an email providing him a final extension to complete the Notice of Technical or Procedural Failures.” Resp't Mot. Compel Ex. 2.

Complainant responded to the Request for Admission. There is nothing to compel.

Complainant is not ordered to respond further to Request for Admission No. 11.

V. REVISED DISCOVERY SCHEDULE

The Court now provides the following deadlines to facilitate discovery.

Parties may move the Court to revise this schedule as appropriate, but must do so via a written motion, and ideally a jointly filed one.

The moving party should articulate good cause (i.e., if an intervening event outside its control precludes it from gathering and producing documents, etc.) in any motion seeking a revision of the schedule.

The schedule for document production is as follows:

Motions for Protective Order	June 30, 2025
Production of Documents Complete	July 30, 2025
Joint Discovery Status Filing	August 14, 2025
Prehearing Conference	August 31, 2025
Summary Decision Deadline	Pending Prehearing Conference ¹⁶

Separately, the parties should note that failure to comply with this order may result in sanctions pursuant to 28 C.F.R. § 68.23(c).

SO ORDERED.

Dated and entered on May 19, 2025.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

¹⁶ Respondent recently filed a Motion for Summary Decision while his motion to compel was pending adjudication. This Motion for Summary Decision will not be adjudicated until discovery is concluded. There is no response deadline at this time.

After the conclusion of discovery, the Court will set a deadline by which Motions for Summary Decision must be filed. The Respondent may revise or refile a Motion for Summary Decision at any time before that deadline; however, the Complainant will have 30 days from the deadline date to respond. Complainant is not precluded from filing its own Motion for Summary Decision.