

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

ELISA MATAYA BANDI,	)	
	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	
	)	OCAHO Case No. 2024B00032
STAFF UP, LLC,	)	
	)	
Respondent.	)	
	)	

Appearances: Elisa Mataya Bandi, pro se Complainant  
Staff Up, LLC, pro se Respondent

NOTICE AND ORDER TO SHOW CAUSE

I. BACKGROUND AND PROCEDURAL HISTORY

This case arises under the anti-discrimination provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b. On January 8, 2024, Complainant, Elisa Mataya Bandi, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that Respondent, Staff Up, LLC, discriminated against her based on her citizenship status, in violation of 8 U.S.C. § 1324b(a)(1), and by asking her for more or different documents than required for the employment eligibility verification process, in violation of 8 U.S.C. § 1324b(a)(6). Compl. §§ 6–7, 10.

Through the complaint, Complainant represented that the Respondent business was located at an address in Dallas, Texas (Address A). Compl. § 4.

On January 11, 2024, using the United States Postal Service (USPS) certified mail, OCAHO’s Chief Administrative Hearing Officer (CAHO) mailed Respondent at Address A: (a) the complaint and (b) a Notice of Case Assignment for Complaint Alleging Unfair Immigration-Related Employment Practices (NOCA) (collectively, “the Complaint package”). The CAHO informed Respondent that these proceedings would be governed by OCAHO’s Rules of Practice and Procedure for Administrative

Hearings, being the provisions contained in 28 C.F.R. part 68 (2024),<sup>1</sup> and applicable case law. Notice of Case Assignment ¶ 2. Links to OCAHO's Rules and its Practice Manual<sup>2</sup> were provided to Respondent, along with contact information for OCAHO. *Id.* The CAHO directed Respondent to answer the complaint within thirty days in accordance with 28 C.F.R. § 68.9(a). *Id.* at ¶ 4. The CAHO cautioned Respondent that its failure to file an answer could lead the Court to enter a judgment by default and all appropriate relief pursuant to 28 C.F.R. § 68.9(b). *Id.*

As is its standard practice, OCAHO requested a tracking number for the Complaint package and proof of service in the form of a USPS certified mail domestic return receipt (PS Form 3811) ("return receipt"). The USPS mail tracking information for the mailing indicated that the Complaint package has been "in transit to the next facility" since January 18, 2024. OCAHO did not receive a return receipt for the mailing.

On February 13, 2024, again using the USPS certified mail, OCAHO sent the Complaint package to Respondent at Address A. The USPS mail tracking information indicated that the USPS was unable to deliver the Complaint package on February 17, 2024, "because the business was closed" and that it would "redeliver on the next business day." The USPS tracking system did not include any other updates regarding the planned re-delivery. OCAHO did not receive a return receipt for this mailing.

On January 21, 2025, Complainant contacted OCAHO and represented that the Respondent business was located at a different address in Dallas, Texas (Address B). On January 22, 2025, OCAHO used the USPS certified mail to send Respondent at Address B the Complaint package and a letter explaining the past attempts at service. The Complaint package was addressed to Respondent's legal department. Although the USPS tracking information reflected that the package was "in transit to next facility" on January 27, 2025, the Court received a return receipt for the Complaint package on February 19, 2025. The return receipt was dated January 29, 2025, and included the printed name and signature for "Lisa Pinckard."<sup>3</sup>

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<sup>1</sup> OCAHO's Rules of Practice and Procedure for Administrative Hearings are available on OCAHO's homepage on the United States Department of Justice's website. See <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

<sup>2</sup> The OCAHO Practice Manual, which is part of the Executive Office for Immigration Review's Policy Manual, provides an outline of the procedures and rules applicable to cases before OCAHO. It is likewise available on the U.S. Department of Justice's website. See <https://www.justice.gov/eoir/eoir-policy-manual/part-iv-ocaho-practice-manual>.

<sup>3</sup> Ms. Pinckard's relationship to the Respondent business is unclear.

As service of the Complaint package was perfected on January 29, 2025, Respondent's answer was due no later than February 28, 2025. *See* 28 C.F.R. §§ 68.3(b), 68.8(a), 68.9(a). To date, Respondent has not filed an answer.

## II. LEGAL STANDARDS AND DISCUSSION

OCAHO's Rules of Practice and Procedure for Administrative Hearings permit a respondent thirty days to file an answer after being served with a complaint. *See* 28 C.F.R. § 68.9(a). Service of a complaint may be effectuated by "mailing [the complaint] to the last known address of such individual, partner, officer, or attorney or representative of record." *Id.* § 68.3(a)(3). Here, the Court began the thirty-day clock on January 29, 2025, being the date when OCAHO perfected service of the complaint on Respondent. *See id.* § 68.3(b) ("Service of complaint . . . is complete upon receipt by addressee."). As such, Respondent's answer was due no later than February 28, 2025. *See id.* § 68.9(a).

Although the CAHO explained to Respondent through the NOCA that it had to file an answer within thirty days of receipt of the complaint, Respondent failed to do so. *See* Notice of Case Assignment ¶ 4. The CAHO warned Respondent that if it failed to file a timely answer, the Court might deem it to have waived its right to appear and contest the allegations of the complaint, and that a judgment by default and other appropriate relief might follow. *Id.* (citing 28 C.F.R. § 68.9(b)). "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).<sup>4</sup>

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 (Vacation by the Chief Admin. Hr'g Officer of the A.L.J.'s Order Den. Default J.) (7/14/89). In *Shine Auto Service*, the Acting CAHO explained:

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<sup>4</sup> 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 after Volume 8, 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 in the Westlaw database "FIM-OCAHO," the LexisNexis database "OCAHO," or on the United States Department of Justice's website at <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions>.

Respondent must justify [in response to the order to show cause] its failure to respond in a timely manner. Based on the Respondent's reply, the Administrative Law Judge shall determine whether the respondent has met the threshold for good cause. If the Administrative Law Judge determines that the Respondent possessed the requisite good cause for failing to file a timely answer, then the Administrative Law Judge may allow the Respondent to file a late answer.

*Id.* at 445–46. This Court will follow that practice here and now issues this Notice and Order to Show Cause.

The Court orders Respondent to file a response to this Order in which it must provide facts sufficient to show good cause for its failure to file a timely answer to the complaint. The Court further orders Respondent to file an answer to the complaint simultaneously with the filing of its response showing good cause. Respondent's answer must comport with 28 C.F.R. § 68.9. Failure to file an answer may constitute a waiver of Respondent's right to appear and contest the allegations of the complaint. 28 C.F.R. § 68.9(b). The Court puts Respondent on notice that default may follow. *Id.*

Upon receipt of Respondent's filings, the Court will determine if Respondent has demonstrated the requisite good cause for failing to file a timely answer to the complaint and will decide whether to allow its untimely answer.

### III. ORDERS

IT IS SO ORDERED that, within twenty days of the date of this Order, Respondent, Staff Up, LLC, shall file a response with the Court in which it must provide facts sufficient to show good cause for its failure to timely answer the complaint in this case.

IT IS FURTHER ORDERED that, within twenty days of the date of this Order, Respondent shall file with the Court an answer to the complaint that comports with 28 C.F.R. § 68.9.

The Court puts Respondent on notice that its failure to file an answer “may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint” and the Court may enter a default judgment against Respondent as to both liability and penalties. 28 C.F.R. § 68.9(b).

SO ORDERED.

Dated and entered on July 1, 2025.

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Honorable Carol A. Bell  
Administrative Law Judge