

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

UNITED STATES OF AMERICA,)	
)	
Complainant,)	
)	8 U.S.C. § 1324a Proceeding
v.)	
)	OCAHO Case No. 2024A00113
ALCOCER, LLC,)	
D/B/A A&C PRODUCTS, INC.,)	
)	
Respondent.)	
)	

Appearances: Christopher R. Ford, Esq., for Complainant
Alcocer, LLC, d/b/a A&C Products, Inc., Respondent

NOTICE AND ORDER TO SHOW CAUSE

I. BACKGROUND AND PROCEDURAL HISTORY

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, 8 U.S.C. § 1324a. On June 21, 2024, Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO). Complainant alleges that Respondent, Alcocer, LLC, doing business as A&C Products, Inc., failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for seventy-six individuals and failed to properly complete section 1, section 2, or section 3 of the Form I-9 for seven individuals, all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 5.

Complainant attached to the complaint the Notice of Intent to Fine Pursuant to Section 274A of the INA (NIF) that it personally served on Respondent through Mr. Richard D. Garcia¹ on July 21, 2023, seeking a fine of \$200,096.40 for the alleged

¹ Mr. Garcia was identified as “management” on the NIF’s certificate of service. Compl. Ex. A.

violations. Compl. Ex. A. The NIF put Respondent on notice of the need to request a hearing before an Administrative Law Judge (ALJ) “within 30 days from the service of this [NIF].” *Id.* Also attached to the complaint was a letter to DHS dated July 25, 2023, from Mr. Richard Garcia, with a signature line that read “A & C Products Management,” through which he requested a hearing on behalf of Respondent (“request for hearing”).² *Id.* Ex. B. Finally, Complainant attached to the complaint a request that OCAHO serve the complaint on Respondent, through Mr. Richard Garcia, at an address in San Antonio, Texas. *Id.* Attach. (citing 28 C.F.R. § 68.7).

On July 1, 2024, using the United States Postal Service’s (USPS) certified mail service, OCAHO’s Chief Administrative Hearing Officer (CAHO) sent Respondent—via Mr. Garcia—a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), the complaint, the NIF, and Respondent’s request for hearing (together, the “Complaint package”). In the NOCA, the CAHO explained to Respondent that these proceedings would be governed by OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions located at 28 C.F.R. part 68, and applicable case law. Notice of Case Assignment ¶ 2. The NOCA included links to OCAHO’s Rules and its Practice Manual,³ 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.* ¶ 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.*

Per its standard practice, OCAHO requested a tracking number for the Complaint package and proof of service through a USPS Domestic Return Receipt Form (PS Form 3811) (“return receipt”). The USPS certified mail tracking information for the Complaint package indicated that it was “delivered, left with individual” on July 8, 2024. OCAHO also received a completed return receipt with a signature in the “Received” field and a handwritten delivery date of July 8, 2024.

² Mr. Garcia signed Respondent’s request for hearing, however, OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2024), require that he file a notice of appearance if he intends to represent Respondent in this case. *See* 28 C.F.R. § 68.33(f). Likewise, should Respondent retain counsel in this matter, its counsel shall file a notice of appearance. *See id.* OCAHO’s Rules are available on the United States Department of Justice’s website. *See* <https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-regulations>.

³ 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/reference-materials/ocaho>.

Given that service of the complaint was perfected on July 8, 2024, Respondent's answer was due no later than August 8, 2024. *See* 28 C.F.R. §§ 68.3(b), 68.9(a).

To date, Respondent has not filed an answer to the complaint or otherwise communicated with OCAHO.

II. LEGAL STANDARDS AND DISCUSSION

OCAHO's Rules of Practice and Procedure for Administrative Hearings provide a respondent thirty days to file an answer following service of the complaint. *See* 28 C.F.R. § 68.9(a). Among other options, the complaint may be served 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 July 8, 2024, 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 on or before August 8, 2024. *See id.* §§ 68.8(a), 68.9(a).

Through the NOCA, the CAHO explained to Respondent that it had thirty days to file an answer after its receipt of the complaint. *See* Notice of Case Assignment ¶ 4. Respondent, however, failed to do so. In the NOCA, 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).⁴

⁴ 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>.

OCAHO's long-established practice has been to issue an order to show cause before entering a default. *See United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 444 (1989). In *Shine Auto Service*, the Acting CAHO explained:

Respondent must justify [in its response to the order to show cause] its failure to respond in a timely manner. Based on the Respondent's reply, the [ALJ] shall determine whether the respondent has met the threshold for good cause. If the [ALJ] determines that the Respondent possessed the requisite good cause for failing to file a timely answer, then the [ALJ] 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 proffer facts sufficient to show good cause for its failure to file a timely answer to the complaint. Additionally, the Court 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. 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.

If Respondent fails to file an answer and a response, the Court may find that Respondent has waived its right to appear and contest the allegations of the complaint. 28 C.F.R. § 68.9(b). The Court may then enter a default judgment. *Id.*

If Respondent fails to respond to the Court's orders, the Court will find that it has abandoned its request for hearing and dismiss it pursuant to 28 C.F.R. § 68.37(b)(1). *See, e.g., United States v. Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457c, 2 (2023) (finding that the respondent abandoned its request for a hearing when it failed to respond to the ALJ's orders). "A final order of dismissal based on abandonment is analogous to entry of a default judgment under the Federal Rules of Civil Procedure." *United States v. Vilardo Vineyards*, 11 OCAHO no. 1248, 4 (2015). "Abandonment will result in DHS's NIF becoming the final order." *United States v. DJ's Trans.*, 18 OCAHO no. 1488a, 5 (2024).

III. ORDERS

IT IS SO ORDERED that, within twenty days of the date of this Order, Respondent, Alcocer, LLC, doing business as A&C Products, Inc., 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 and a response to this Order to Show Cause “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). If Respondent fails to respond to the Court’s orders, the Court shall conclude that Respondent has abandoned its request for a hearing and issue an order of dismissal. *Id.* § 68.37(b). The NIF will be rendered the final agency order.

SO ORDERED.

Dated and entered on July 14, 2025.

Honorable Carol A. Bell
Administrative Law Judge