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

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

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

FINAL ORDER OF DISMISSAL

I. 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. Garcia[1] 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"). *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,[2] 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. 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).

On July 14, 2022, the Court issued a Notice and Order to Show Cause. July 14, 2022 Notice & Order to Show Cause. The Court found that OCAHO perfected service of the Complaint package on Respondent on July 8, 2024. *Id.* at 3. The Court explained that under OCAHO's Rules of Practice and Procedure for Administrative Hearings, which generally govern these proceedings, Respondent's answer to the

[2] 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.

complaint was due no later than August 7, 2024. *Id.* at 4 (citing 28 C.F.R. §§ 68.8(a), 68.9(a)). The Court noted that Respondent had failed to file a timely answer. *Id.*

Following this discussion, the Court repeated a warning the Chief Administrative Hearing Officer (CAHO) made in the NOCA that Respondent's failure to file an answer may lead the Court to enter a judgment by default. July 14, 2022 Notice & Order to Show Cause at 3 (citing NOCA at 3 (citing 28 C.F.R. § 68.9(b))). The Court informed Respondent that, as the Acting CAHO had explained in *United States v. Shine Auto Serv.*, 1 OCAHO no. 70, 444 (1989), Respondent would need to demonstrate good cause to avoid entry of default. *Id.* at 4. The Court ordered Respondent, within twenty days of the issuance of that Order, to file an answer and show good cause for its failure to file a timely answer. *Id.* at 5.

The Court also put Respondent on notice that "if it fail[ed] to respond to the Court's orders, the Court will find that it has abandoned its request for hearing pursuant to 28 C.F.R. § 68.37(b)(1)," resulting in dismissal. July 14, 2022 Notice & Order to Show Cause at 4 (citing *United States v. Steidle Lawn & Landscape, LLC*, 17 OCAHO no. 1457c, 2 (2023)). At the end of the Order, the Court repeated its warnings of the potential consequences of entry of a default pursuant to 28 C.F.R. § 68.9(b) and dismissal of Respondent's request for hearing pursuant to 28 C.F.R. § 68.37(b) should the Court find that Respondent had abandoned its request for hearing by failing to respond to the Court's orders. *Id.* at 5. Indeed, if Respondent failed to respond to the Court's orders, the Court stated that it "shall conclude that Respondent has abandoned its request for a hearing and issue an order of dismissal." *Id.* (citing 28 C.F.R. § 68.37(b)).

Respondent's submissions in response to the Notice and Order to Show Cause Regarding Answer were due on August 4, 2025.[3] To date, Respondent has not filed an answer, proffered good cause, or otherwise indicated to the Court that it intends to defend this action or pursue its request for a hearing.

II. LEGAL STANDARDS AND DISCUSSION

OCAHO's Rules of Practice and Procedure for Administrative Hearings state that "[f]ailure of the respondent 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" and, as a result, the Court "may enter a judgment by default." 28 C.F.R. § 68.9(b). OCAHO's Rules also provide that "[a] complaint or a request for hearing may be dismissed upon its abandonment by the party or parties who filed it."

[3] Respondent was afforded twenty-one days to file an answer and response given that the twenty-day response deadline fell on a Sunday. *See* 28 C.F.R. § 68.8(a).

Id. § 68.37(b). In cases where a party or its representative "fails to respond to orders issued by the Administrative Law Judge," OCAHO's Rules state that "[a] party *shall be deemed* to have abandoned a complaint or a request for hearing." *Id.* §§ 68.37(b)–(b)(1) (emphasis added).

OCAHO Administrative Law Judges (ALJs) have deemed a respondent who has failed to submit an answer or respond to an order to show cause to have abandoned its request for hearing pursuant to 28 C.F.R. § 68.37(b)(1) and have dismissed the case pursuant to 28 C.F.R. § 68.37(b). *See, e.g., United States v. Milwhite, Inc.*, 17 OCAHO no. 1469a, 2 (2023) (dismissing case when the respondent failed to file answer or respond to order to show cause); *United States v. Patmo Concrete, LLC,* 17 OCAHO no. 1448b, 2 (2022) (accord); *United States v. Triple Crown Rest. Grp. LLC*, 16 OCAHO no. 1444b, 2–3 (2022) (accord).

Although dismissal is a severe sanction, OCAHO ALJs have ordered dismissals based on abandonment where the party was appearing pro se if that party was "warned of the potential consequences, including dismissal for abandonment, should it not respond to the Court's orders." *United States v. Nash Patio and Garden Ltd.*, 19 OCAHO no. 1543, 5 (2024) (dismissing case for abandonment of the respondent's request for hearing after the ALJ warned respondent of the potential consequences of not responding to the ALJ's orders); *see also Rodriguez v. Tyson Foods, Inc.*, 9 OCAHO no. 1109, 3 (2004) (dismissing complaint for abandonment due to the complainant's failure to respond to the ALJ's orders and comply with discovery orders after warnings that "noncompliance can result in dismissal.").

III. DISCUSSION AND ANALYSIS

This matter is before the Court because Respondent requested a hearing before an ALJ after DHS served it with the NIF on July 21, 2023. In response to its request, Complainant filed a complaint with this Court[4] and then OCAHO perfected service of the Complaint package, including the NOCA, on Respondent in accordance with OCAHO's Rules of Practice and Procedure for Administrative Hearings. *See*

[4] The Court notes that approximately eleven months elapsed between Respondent's request for hearing dated July 25, 2023, and Complainant's filing of the complaint against Respondent with OCAHO on June 21, 2024. However, this delay does not excuse Respondent's inaction. *See. e.g., United States v. Dubose Drilling, Inc.*, 18 OCAHO no. 1487b, 5 (2024) (although there was a "substantial" delay of three and a half years between the respondent's request for a hearing and DHS's filing of the complaint, the ALJ explained that "once DHS filed the complaint and the NOCA was served, Respondent's participation in this litigation became necessary").

28 C.F.R. § 68.3(a)(3). In the NOCA, OCAHO gave Respondent its contact information and links to both the Court's rules and OCAHO's Practice Manual.[5] *See* NOCA ¶ 2. A Notice and Order to Show Cause followed. Yet Respondent has not contacted OCAHO or filed an answer or response to the Court's Notice and Order to Show Cause. It has failed to participate in this litigation and has ignored the Court's orders. As explained below, its inaction results in dismissal.

The Court finds that Respondent, who is appearing pro se, was put on notice of the rules governing this forum and has been given sufficient warnings of the consequences of its decision not to respond to the Court's orders. First, OCAHO's CAHO explained to Respondent that these proceedings would be governed by OCAHO's Rules of Practice and Procedure for Administrative Hearings and applicable case law, *see* NOCA ¶ 2, and that, under OCAHO's Rules, if Respondent did not file a timely answer, the Court could deem it to have waived its right to appear and contest the allegations of the complaint and that "the [ALJ] may enter a judgment by default along with any and all appropriate relief." *Id.* ¶ 4 (citing 28 C.F.R. § 68.9(b)). OCAHO's Rules, a link to which the CAHO gave Respondent, also describe dismissal for abandonment pursuant to 28 C.F.R. § 68.37(b). Additionally, as noted above, the CAHO provided Respondent with contact information for OCAHO and a link to OCAHO's Practice Manual. *Id.* ¶ 2. Respondent did not utilize these resources or heed the CAHO's instruction and warning.

Second, through its Notice and Order to Show Cause, the Court put Respondent on notice of the potential outcomes—including dismissal for abandonment or entry of a default judgment—if it failed to file an answer and respond to the Court's orders. July 14, 2022 Notice & Order to Show Cause at 4–5. The Court cited 28 C.F.R §§ 68.37(b)–(b)(1) and twice warned Respondent that, if it failed to make the requisite filings, the Court would find that it had abandoned its request for hearing and dismiss its request for hearing. *Id.* The Court further cautioned that it might enter a default against Respondent pursuant to 28 C.F.R. § 68.9(b). *Id.* The Court reiterated the CAHO's warning that Respondent would not receive the hearing it requested if it waived its right to appear and contest the allegations raised in the complaint by not filing an answer. *Id.* at 3 (citing 28 C.F.R. § 68.9(b)); *see also* NOCA ¶ 4. It explained that it would enter a judgment for Complainant without a hearing. *Id.* (citing *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004)).

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[5] 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 United States Department of Justice's website. *See* https://www.justice.gov/eoir/reference-materials/ocaho.

These warnings and notices elicited no response from Respondent. It has not filed an answer, a response showing good cause, or any other filing indicating that it intends to defend this action and pursue its request for hearing. Although 28 C.F.R. § 68.9(b) instructs that an ALJ may enter a judgment by default, Complainant has not filed such a motion with the Court. The case has ground to a halt.

The Court finds that Respondent has abandoned its request for hearing before OCAHO by failing to respond to the Court's orders. 28 C.F.R. § 68.37(b)(1). OCAHO's Rules of Practice and Procedure for Administrative Hearings specify that "[a] party *shall be deemed* to have abandoned a complaint or a request for hearing" when "a party of his or her representative fails to respond to orders issued by the [ALJ]." *Id.* § 68.37(b)–(b)(1) (emphasis added). The CAHO has explained that 28 C.F.R. § 68.37(b) "suggests that a finding of abandonment is mandatory in certain circumstances." *United States v. Koy Chinese & Sushi Rest.*, 16 OCAHO no. 1416d, 5 (2023); *see also United States v. Cordin Co.*, 10 OCAHO no. 1162, 1, 3–4 (2012) (citing 28 C.F.R § 68.37(b)(1)) (noting that "[t]he procedures governing abandonment and dismissal provide that '[a] party *shall* be deemed to have abandoned' a request for hearing if the party 'fails to respond to orders issued by the [ALJ].'").

Given this abandonment, dismissal is "entirely appropriate under 28 C.F.R. § 68.37(b)" as the CAHO found in a similar case where the respondent did not file an answer or a response to an order to show cause. *Cordin Co.*, 10 OCAHO no. 1162, at 4 (citations omitted). Respondent's pro se status does not alter this finding given that it was warned of the potential consequences of dismissal for abandonment or entry of a default judgment should it fail to file an answer and ignore the Court's orders. *See, e.g.*, *United States v. Sai Enter. Ltd.*, 18 OCAHO no. 1489a, 5–7 (2024) (dismissing case for abandonment of a request for hearing pursuant to 28 C.F.R. § 68.37(b)(1) where pro se respondent did not file an answer or a response to an order to show cause and was warned of the consequences of dismissal for abandonment and entry of default); *Nash Patio and Garden Ltd.*, 19 OCAHO no. 1543, at 5–6 (accord); *United States v. Louie's Wine Dive, LLC*, 15 OCAHO no. 1404, 2 (2021) (accord).

Pursuant to 28 C.F.R. §§ 68.37(b)–(b)(1), the Court now dismisses this case which arose from the complaint filed on June 21, 2024, and Respondent's request for hearing dated July 25, 2023. Given that this dismissal is based on Respondent's abandonment, the Court finds further inquiry into the civil money penalty amount to be inappropriate and now renders the original NIF that DHS served on Respondent on July 21, 2023, the final agency order. *See, e.g., United States v. Hui*, 3 OCAHO no. 479, 826, 828–29 (1992) (treating respondent's abandonment of a request for hearing as a default judgment on liability and the penalty amount and noting that bifurcating the case to take evidence or argument on penalty would "result in delay, without providing any benefit to Respondent" where respondent was unavailable); *Sai Enter. Ltd.*, 18 OCAHO no. 1489a, at 7 (accord).

IV. ORDERS

IT IS SO ORDERED that, pursuant to 28 C.F.R. §§ 68.37(b)–(b)(1), this case which arose from the complaint filed on June 21, 2024, with the Office of the Chief Administrative Hearing Officer by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and the July 25, 2023, request for hearing by Respondent, Alcocer, LLC, doing business as A&C Products, Inc., is DISMISSED; and

IT IS FURTHER ORDERED that Complainant's Notice of Intent to Fine Pursuant to Section 274A of the Immigration and Nationality Act served on Respondent, Alcocer, LLC, doing business as A&C Products, Inc., on July 21, 2023, is rendered the final agency order.

SO ORDERED.

Dated and entered on August 20, 2025.

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Honorable Carol A. Bell
Administrative Law Judge

Appeal Information

This order shall become the final agency order unless modified, vacated, or remanded by the Chief Administrative Hearing Officer (CAHO) or the Attorney General.

Provisions governing administrative reviews by the CAHO are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Note in particular that a request for administrative review must be filed with the CAHO within ten (10) days of the date of this order, pursuant to 28 C.F.R. § 68.54(a)(1).

Provisions governing the Attorney General's review of this order, or any CAHO order modifying or vacating this order, are set forth at 8 U.S.C. § 1324a(e)(7) and 28 C.F.R. pt. 68. Within thirty (30) days of the entry of a final order by the CAHO, or within sixty (60) days of the entry of an Administrative Law Judge's final order if the CAHO does not modify or vacate such order, the Attorney General may direct the CAHO to refer any final order to the Attorney General for review, pursuant to 28 C.F.R. § 68.55.

A petition to review the final agency order may be filed in the United States Court of Appeals for the appropriate circuit within forty-five (45) days after the date of the final agency order pursuant to 8 U.S.C. § 1324a(e)(8) and 28 C.F.R. § 68.56.