

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. 2026A00009
	)	
LA TROJE BAR AND GRILL, LLC,	)	
	)	
Respondent.	)	
	)	

Appearances: Oscar J. Montemayor, Esq., for Complainant
Ignacio G. Martinez, Esq., for Respondent

ORDER TO FILE TIMELY REQUEST FOR HEARING

I. PROCEDURAL HISTORY

This case arises under the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. 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) on December 16, 2025. Complainant alleges that Respondent, La Troje Bar and Grill, LLC, failed to ensure the employee properly completed section 1 and/or failed to properly complete section 2 or 3 of the Employment Eligibility Verification Form (Form I-9) for sixteen individuals in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6. 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. Luis Gonzalez, who identified himself as the owner of the Respondent-business, in Brownsville, Texas, on July 17, 2024, seeking a fine of \$35,258.80 for the alleged violations. Compl. Ex. A. The NIF put Respondent on notice of its right to contest the fine by submitting a written request for a hearing before an Administrative Law Judge (ALJ) to DHS “within 30 days from the service of this [NIF].” *Id.* The NIF provided both a mailing address and an email address for DHS. *Id.*

Also attached to the complaint was a letter dated August 19, 2024, signed by Mr. Ignacio G. Martinez, Esq., on behalf of the Respondent-business, through which Mr. Martinez requested a hearing before an ALJ (“request for hearing”). Compl. Ex. B. Mr. Martinez’s letterhead included an address for his law firm in Brownsville, Texas. *Id.* The letter represented that it was sent to DHS via United States Postal Service (USPS) certified mail and email. *Id.* The copy of the letter Complainant attached to the complaint was stamped as being received by DHS in Harlingen, Texas, on August 21, 2024. *Id.* Pursuant to 28 C.F.R. § 68.7(b)(5),¹ Complainant asked OCAHO to serve the complaint both on Respondent at its business address, through owner Mr. Gonzalez, and Respondent’s counsel, Mr. Martinez, at his law office in Brownsville, Texas. Compl. 6. On January 5, 2025, using the United States Postal Service’s (USPS) certified mail service, OCAHO mailed Respondent 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”).

On February 10, 2026, the Court issued a Notice and Order to Show Cause finding that OCAHO perfected service of the Complaint package on Respondent and its counsel on January 9, 2026, in accordance with 28 C.F.R. §§ 68.3(a)(3), 68.3(b). Notice & Order to Show Cause 4. The Court also found that the Respondent had not timely filed its answer to the complaint and ordered Respondent, within twenty-one days, to file a response showing good cause for its failure to file a timely answer together with an answer to the complaint. *Id.* at 5–6. To date, Respondent has not filed an answer or responded to the Notice and Order to Show Cause.

II. REGULATORY AND LEGAL STANDARDS

A. Request for a Hearing before OCAHO

An employer who has been served with a Notice of Intent to Fine Pursuant to Section 274A of the INA by the government may “request . . . within a reasonable time (of not less than 30 days . . .) of the date of the notice, a hearing respecting the violation.” 8 U.S.C. § 1324a(e)(3)(A). This hearing “shall be conducted before an administrative law judge [ALJ].” *Id.* § 1324a(e)(3)(B). DHS regulations likewise specify that “[i]f a respondent contests the issuance of a [NIF], the respondent must file . . . within thirty days of the service of the [NIF], a written request for a hearing before an [ALJ].” 8 C.F.R. § 274a.9(e). The regulations state that “[a] request for a

¹ OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2025), 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>.

hearing is not deemed to be filed until received by the Service office designated in the Notice of Intent to Fine.” 8 C.F.R. § 274a.9(e).

If the employer fails to timely request a hearing before an ALJ, the government will impose the order statutorily authorized for the employer’s violations. 8 U.S.C. §§ 1324a(e)(3)(A), (4)–(6). DHS regulations further explain that, if “the respondent [employer] does not file a request for hearing in writing within thirty days of the day of service of the [NIF],” DHS “shall issue a final order from which there is no appeal.” 8 C.F.R. § 274a.9(f). Indeed, “[i]f the respondent does not file a request for a hearing in writing within thirty days of service of the NIF, ‘the final order issued by DHS shall not be subject to a hearing before an [ALJ] under 28 CFR part 68,’ being OCAHO’s Rules of Practice and Procedure for Administrative Hearings. *Id.* § 274a.9(f).

B. OCAHO’s Pleading Requirements for Complaints

OCAHO’s Rules of Practice and Procedure for Administrative Hearings, which generally govern these proceedings, set forth the pleading standards for complaints which include the “alleged violations of law, with a clear and concise statement of facts for each violation alleged to have occurred.” 28 C.F.R. § 68.7(b)(3). OCAHO’s Rules also require that complaints brought pursuant to 8 U.S.C. § 1324a “be accompanied by a copy of the Notice of Intent to Fine and Request for Hearing.” *Id.* § 68.7(c). As the Chief Administrative Hearing Officer (CAHO) has explained, “[t]his requirement was added to OCAHO’s rules in 1989 ‘to allow [OCAHO] to confirm proper jurisdiction.’” *United States v. A&D Maint. Leasing and Repairs, Inc.*, 19 OCAHO no. 1568a, 5 (2024) (CAHO Order) (citing 54 Fed. Reg. 48,593, 48,594 (Nov. 24, 1989)).² The CAHO has clarified that it is “[t]he original request for hearing” that “triggers OCAHO jurisdiction,” while the copy attached to the complaint “aids in confirming that jurisdiction already exists.” *Id.* As a result, the requirement to attach a copy of the request for hearing “is best understood as a nonjurisdictional claim-processing rule.” *Id.* at 6.

² 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>.

However, “parties cannot waive jurisdiction, nor can they manufacture it by consent, such as agreeing that a request for hearing was filed when one was not actually filed.” *A&D Maint.*, 19 OCAHO no. 1568a, at 5 n.6. OCAHO ALJs “[have] both the authority, and the duty, to determine sua sponte if [they have] subject matter jurisdiction.” *Sinha v. Infosys*, 14 OCAHO no. 1373, 2 (2020). As a result, where there is a “question as to whether Respondent, in fact, requested a hearing . . . nothing . . . prohibits the presiding ALJ . . . from inquiring further as to the existence of a request for hearing in order satisfy [herself] that jurisdiction exists.” *A&D Maint.*, 19 OCAHO no. 1568a, at 5 n.6.

III. DISCUSSION

OCAHO’s Rules of Practice and Procedure for Administrative Hearings specify that a complaint “shall be accompanied by a copy of the Notice of Intent to Fine and Request for Hearing.” 28 C.F.R. § 68.7(c). While Complainant filed the NIF in this case—which put Respondent on notice of the need to provide DHS with a written request for hearing within thirty days of its service—Complainant has not filed proof that Respondent timely filed with DHS a request for hearing before an ALJ. Compl. Ex. A. The NIF and a respondent’s timely request in writing for a hearing are “conditions precedent to an OCAHO proceeding in cases under 8 U.S.C. § 1324a.” *A&D Maint.*, 19 OCAHO no. 1568a, at 5. “[I]f a respondent does not timely file a request for hearing with DHS, OCAHO jurisdiction cannot be triggered, and a respondent is not entitled to a hearing.” *Id.*

Here, Complainant’s cover letter to the complaint on file with the Court included an assertion by DHS counsel that “Respondent’s *timely* request for a hearing” was attached to the complaint. Compl. 7 (emphasis added). The complaint states that, on August 19, 2024, “the respondents [sic], through counsel, sent the Complainant an email requesting a hearing (Exhibit B).” Compl. ¶ 4. The referenced Exhibit B, however, is not an email. Rather, it is a signed letter from Respondent’s counsel dated August 19, 2024, with a DHS receipt date stamp for August 21, 2024. *See* Compl. Ex. B. Through the letter, Respondent’s counsel indicated that he sent the letter to DHS via USPS certified mail and email.³ *See id.* The dates on counsel’s letter, however, do not demonstrate that a written request for hearing was timely filed with DHS within thirty days of the July 17, 2024, service of the NIF on Respondent. As such, the letter does not satisfy the threshold requirement for triggering the Court’s jurisdiction. *See* 8 U.S.C. § 1324a(e)(3)(A); *see also* 8 C.F.R. § 274a.9(e).

³ The letter includes a handwritten tracking number next to the methods of service, but a portion of the tracking number is missing from the copy of the letter on file with the Court.

Although Respondent's counsel represented that he emailed his August 19, 2024, letter requesting a hearing to DHS, *see* Compl. Ex. B, and the complaint states that Respondent's counsel sent an email requesting a hearing on August 19, 2024, *see* Compl. ¶ 4, Complainant did not attach a copy of the email to the complaint. Even if it had done so, the question of timeliness of Respondent's request for hearing remains because DHS served the NIF on Respondent on July 17, 2024. *See* 8 U.S.C. § 1324a(e)(3)(A); *see also* 8 C.F.R. § 274a.9(e). Given the insufficient information on file, the Court is obligated to inquire whether it has subject-matter jurisdiction in this case. *Sinha*, 14 OCAHO no. 1373, at 2.

Because DHS was required to issue a final order pursuant to 8 C.F.R. § 274a.9(f) if Respondent failed to timely request a hearing before this Court, and given the lack of confirmatory information on file as to the timeliness of Respondent's request for a hearing, *see* Compl. Ex. B, the Court now affords Complainant twenty-one days to file a copy of Respondent's timely request for hearing to satisfy OCAHO's Rules of Practice and Procedure for Administrative Hearings and to confirm OCAHO's jurisdiction over this case. Because Respondent is presumably aware of whether it made a timely, written request for hearing to DHS, the Court likewise affords Respondent twenty-one days to file a copy of its timely, written request to DHS for a hearing before an ALJ. *See, e.g., United States v. Tex. Excel Prop. Mgmt. Servs. Corp.*, 21 OCAHO no. 1667, 5–6 (2025) (ordering the government to file the respondent's timely, written request for hearing and affording the respondent an opportunity to do the same).

IV. ORDERS

IT IS SO ORDERED that, within twenty-one days of the date of this Order, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, shall file with this Court a copy of Respondent's timely, written request for a hearing before an Administrative Law Judge.

IT IS FURTHER ORDERED that Respondent, La Troje Bar and Grill, LLC, has twenty-one days from the date of this Order to file with the Court a copy of its timely, written request for hearing filed with DHS.

SO ORDERED.

Dated February 24, 2026.

Honorable Carol A. Bell
Acting Chief Administrative Law Judge