

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. 2023A00064
MENDOZA MAINTENANCE	)	
GROUP, INC.,	)	
	)	
Respondent.	)	

Appearances: Oscar J. Montemayor, Esq., for Complainant
Javier Mendoza and Jaime Mendoza, 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, 8 U.S.C. § 1324a. The United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on June 6, 2023. Complainant alleges that Respondent, Mendoza Maintenance Group, Inc., failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9) for nine individuals (Count I) and failed to ensure proper completion of Forms I-9 for seventeen individuals (Count II), all 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. Javier Mendoza, Respondent's president, on July 24, 2019, seeking a fine of \$46,954.70 for the alleged violations. Compl. Ex. A.

Also attached to the complaint was a signed letter dated July 29, 2019, through which Mr. Javier Mendoza, who identified himself as Respondent's president, requested a hearing (request for hearing). Compl. Ex. B.

On June 12, 2023, using the United States Postal Service (USPS) certified mail, OCAHO's Chief Administrative Hearing Officer (CAHO) mailed Respondent in Laredo, Texas, the complaint, mailed Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA), the NIF, and Respondent's request for a hearing (collectively "the Complaint package"). The CAHO informed Respondent that these proceedings would be governed by OCAHO's Rules of Practice and Procedure for Administrative Hearings¹ and applicable case law. Notice of Case Assignment ¶ 1. Links to OCAHO's Rules and its Practice Manual² were provided to Respondent, along with contact information for OCAHO. *Id.* ¶ 2. 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.*

The USPS certified mail tracking service indicated that the Complaint package was delivered on June 17, 2023. As service was perfected on June 17, 2023, Respondent's answer was due no later than July 17, 2023. *See* 28 C.F.R. §§ 68.3(b), 68.9(a).

On July 11, 2023, Respondent filed a Motion to Dismiss on Grounds of Violations of Procedures (Motion to Dismiss). Respondent failed to file an answer to the complaint by the regulatory deadline. On July 31, 2023, Complainant filed Complainant's Opposition to Respondent's Motion to Dismiss.

The Court issued an Order to Show Cause on January 11, 2024. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516 (2024).³ The Court

¹ OCAHO's Rules of Practice and Procedure for Administrative Hearings are the provisions contained in 28 C.F.R. part 68 (2026). OCAHO's Rules are available in the Electronic Code of Federal Regulations. *See* <https://www.ecfr.gov/current/title-28/chapter-I/part-68>.

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 available on the United States Department of Justice's website. *See* <https://www.justice.gov/eoir/policy-manual-eoir/part-IV/ocaho>.

³ 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

explained that Respondent's Motion to Dismiss did not excuse or toll the regulatory deadline for filing an answer. *Id.* at 3–4 (citing, inter alia, 28 C.F.R. § 68.10(a)). The Court ordered Respondent to file by January 31, 2024: (a) an answer comporting with the requirements of 28 C.F.R. § 68.9 and (b) a filing setting forth facts sufficient to show good cause for its failure to timely answer the complaint. *Id.* at 4.

On January 25, 2024, Respondent, through Mr. Jaime Mendoza,⁴ filed an Answer to Complaint (Answer), an Amended Motion to Dismiss on Grounds of Violations of Procedures (Amended Motion to Dismiss), and a filing entitled "Responses for failure to answer complaint in timely manner" (Response). Due to filing deficiencies, OCAHO staff rejected these filings on the date of receipt. Respondent remedied the deficiencies, and on March 5, 2024, it refiled its Answer, Amended Motion to Dismiss, and Response.

By letter dated March 6, 2024, OCAHO invited the parties to participate in OCAHO's Electronic Filing Pilot Program. On March 20, 2024, Respondent, though Mr. Javier Mendoza, filed its completed Attorney/Participant Registration Form and Certification to participate in OCAHO's Electronic Filing Pilot Program.

On June 18, 2025, the Court issued an Order Accepting Untimely Answer and Response and Discharging Order to Show Cause. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516a (2025). Through that Order, the Court found that good cause existed for Respondent's untimely filing, discharged the Order to Show Cause dated January 11, 2024, and accepted Respondent's Answer. *Id.* at 7.

Also, on June 18, 2025, the Court issued an Order to File Complete Notice of Intent to Fine. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516b (2025). It ordered Complainant to file the complete NIF with the attachment detailing the factual allegations against Respondent and the provisions of law that it asserts Respondent violated. *Id.* at 3.

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>.

⁴ Mr. Jaime Mendoza identified himself as Mr. Javier Mendoza's brother.

On June 18, 2025, the Court issued an Order for Prehearing Statements and Scheduling Initial Prehearing Conference. The Court ordered the parties to make their initial disclosures and file their prehearing statements with the Court within twenty-one days of the Order, or by July 9, 2025. June 18, 2025, Order for Prehr'g Statements 8. The Court also scheduled an initial prehearing conference with parties for July 22, 2025. *Id.*

On July 22, 2025, the Court held the initial prehearing conference with the parties, and on August 19, 2025, it issued an Order Memorializing Initial Prehearing Conference. Through that Order, the Court set a schedule for the case, including dates for the completion of discovery, the filing of dispositive motions and responses, and a date for a contested hearing. Aug. 19, 2025 Order Memorializing Initial Prehr'g Conference 7. Further, no later than August 1, 2025, the Court ordered Respondent to make its initial disclosures and Complainant to supplement its initial disclosures. *Id.*

On July 23, 2025, Respondent filed Respondent's Prehearing Statement. On that same date, Respondent filed its Response for Failure to Answer Order in Timely Manner. Also, on July 23, 2025, Respondent filed Respondent's Motion to Dismiss Complaint (OCAHO Case No. 2023A00064).

On July 29, 2025, Complainant filed The United States Department of Homeland Security's Initial Disclosures and Prehearing Statement. It attached the complete NIF as Exhibit A. On that same date, Complainant filed a Notice of Appearance and Motion for Substitution. Through the filing, DHS Deputy Chief Counsel Oscar J. Montemayor entered his appearance in this matter and moved the Court to substitute him as Complainant's lead counsel. Notice Appearance & Mot. Substitution 1. Also, on July 29, 2025, Complainant filed its completed Attorney/Participant Registration Form and Certification to participate in OCAHO's Electronic Filing Pilot Program.

On July 29, 2025, the parties filed The United States Department of Homeland Security's Joint Request for Settlement Officer Program Referral (Joint Request Referral). Through the motion, which was signed by Complainant's counsel and Mr. Jaime Mendoza on behalf of Respondent, the parties represented that they "have informally engaged in settlement discussions but are unable to resolve this matter and remain at an impasse." Joint Req. Referral 2, 4.⁵ The parties then requested a referral to the OCAHO Settlement Officer Program "to mediate and assist with a resolution of this matter." *Id.* at 2.

⁵ Pinpoint citations to The United States Department of Homeland Security's Joint Request for Settlement Officer Program Referral are to the page numbers of the PDF version of the motion on file with the Court.

On August 19, 2025, the Court issued an Order on Complainant's Notice of Appearance and Motion for Substitution. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516c (2025). Also, on August 19, 2025, the Court issued an Order on Electronic Filing, permitting the parties to participate in OCAHO's Electronic Filing Pilot Program.

Further, on August 19, 2025, the Court issued an Order Granting Joint Motion to Refer Matter to a Settlement Officer, Referring Case to the Settlement Officer Program, and Designating Settlement Officer (Order Referring Case to Settlement Officer Program). *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516d (2025). The Court found that the case met the eligibility requirements for the OCAHO Settlement Officer Program, as set out in Section I.C.1–2 of PM 20-16 and Chapter 4.7(a)(3)(A)–(B) of the OCAHO Practice Manual, and was appropriate for a referral. *Id.* The Court granted the parties' motion, appointed an OCAHO Administrative Law Judge (ALJ) as the Settlement Officer and ordered that the case be referred to the OCAHO Settlement Officer Program for sixty days beginning on September 2, 2025, and continuing through November 3, 2025. *Id.* at 4–5. The Court found that no procedural deadlines needed to be stayed during the referral period. *Id.* at 4. The parties did not resolve the case during the referral period.

On February 11, 2026, the assigned Settlement Officer, OCAHO ALJ Andrea Carroll-Tipton, requested a thirty-day extension of the case's initial referral to the OCAHO Settlement Officer Program. The Settlement Officer explained that, with the parties' consent, she was seeking this additional time to enable the parties to pursue a resolution of this case through mediation.

On February 12, 2026, the Court issued an Order Extending Referral to the OCAHO Settlement Officer Program. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516e (2026). Through that Order, the Court extended the referral period to the OCAHO Settlement Officer Program through March 19, 2026, and reminded the parties that, should they reach a settlement agreement during the referral period, they must file a joint notice of settlement and agreed motion to dismiss compliant with 28 C.F.R. § 68.14(a)(2). *Id.* at 4–5. In the event the parties could not reach a settlement agreement during the referral period, the Court advised the parties that the Settlement Officer would refer them back to the undersigned for further proceedings, and that the Court would request status reports and set new case deadlines. *Id.* at 4.

On April 8, 2026, the Settlement Officer advised the Court that the parties were in the process of finalizing a settlement agreement resolving the allegations in this case.

On April 9, 2026, the Court issued an Order for Status Reports and Notice Regarding OCAHO Portal. Through that Order, the Court directed the parties, by April 30, 2026, to either file status reports addressing the status of their settlement negotiations or filings seeking dismissal pursuant to 28 C.F.R. § 68.14. Apr. 9, 2026 Order Status Reports & Notice OCAHO Portal 5–6. The Court also notified the parties that OCAHO had implemented a web-based electronic filing system (OCAHO Portal) that litigants may use for filing and receipt of decisions and orders. *Id.* at 5.

On April 9, 2026, Complainant filed Notice of Voluntary Dismissal Pursuant to F.R.C.P. 41(a)(A)(i) to voluntarily dismiss this case without prejudice. On April 9, 2026, OCAHO gained access to Complainant’s Notice of Filing and attached settlement agreement filed through the OCAHO Portal on April 7, 2026.

On April 10, 2026, the Court issued an Order on Complainant’s Notice for Voluntary Dismissal and Scheduling Second Prehearing Conference. *See United States v. Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516f (2026). The Court found that “[b]ecause Respondent has filed an answer to the complaint in this case, Complainant cannot avail itself of Rule 41(a)(1)(A)(i) and voluntarily dismiss this case without a court order.” *Id.* at 3. The Court scheduled a prehearing conference on April 14, 2026, “to discuss the parties’ filings and decision to exit the forum either by consent findings or dismissal.” *Id.* at 4.

On April 14, 2026, the Court held a second telephonic prehearing conference in this matter, and on April 16, 2026, it issued an Order Memorializing Second Prehearing Conference. During the prehearing conference, the Court discussed the parties’ recent filings, including Complainant’s Notice of Filing with attached settlement agreement and Complainant’s Notice for Voluntary Dismissal Pursuant to F.R.C.P. 41(a)(1)(A)(i). Apr. 16, 2026 Order Memorializing Second Prehr’g Conf. 3–5. The parties jointly notified the Court that they had reached a full settlement, and the Court granted them leave to make an oral motion to dismiss the proceedings pursuant to 28 C.F.R. § 68.11. *Id.* at 4. The parties then made an oral motion to dismiss this case pursuant to 28 C.F.R. § 68.14(a)(2). *Id.* In response to the Court’s inquiry, the parties said that they had agreed to seek a dismissal without prejudice. *Id.* The Court explained the difference between a dismissal with and without prejudice to the parties. *Id.* After confirming the parties’ understanding of dismissal without prejudice, the Court accepted their joint oral motion to dismiss this case without prejudice and said that it would issue a final order of dismissal due to settlement. *Id.*

Also, during the second prehearing conference, the Court addressed the parties’ settlement agreement on file with the Court which was signed by Mr. Javier Mendoza on behalf of the Respondent business. Apr. 16, 2026, Order Memorializing Second Prehr’g Conf. 4. The parties represented that Mr. Jaime Mendoza would sign

the final agreement, but that the substance of the agreement on file was identical. *Id.* Given that representation, the Court said that it would not require the parties to file the settlement agreement to be signed by Mr. Jaime Mendoza. *Id.* The Court said that it was satisfied with the parties' settlement agreement except for paragraphs seven and ten, both of which it discussed with the parties. *Id.* at 4–5.

II. LEGAL STANDARDS AND ANALYSIS

Under OCAHO's Rules of Practice and Procedure for Administrative Hearings, there are two avenues for leaving the forum when the parties have entered into a settlement agreement. *See* 28 C.F.R. § 68.14. The parties may either submit an agreement containing consent findings or file a notice of settlement and seek dismissal. *Id.* § 68.14(a). 28 C.F.R. § 68.14(a)(2) requires the parties to notify the ALJ that they "have reached a full settlement and have agreed to dismissal of the action." The presiding ALJ may require the parties to file their settlement agreement and must approve dismissal of the action. *Id.* § 68.14(a)(2).

Although Complainant filed a Notice of Voluntary Dismissal Pursuant to F.R.C.P. 41(a)(1)(A)(i), the Court explained that voluntary dismissal without a court order was not available to it. *See Mendoza Maint. Grp., Inc.*, 18 OCAHO no. 1516f, at 2. As such, the parties chose to proceed pursuant to 28 C.F.R. § 68.14(a)(2) during the April 14, 2026, prehearing conference by jointly informing the Court that they had reached a full settlement and then moving for dismissal without prejudice. *See* Apr. 16, 2026 Order Memorializing Second Prehr'g Conf. 4. At that time, the Court accepted their oral motion to dismiss this case. *Id.* While the parties did not file a written motion, OCAHO's Rules explain that an ALJ may "in the course of an oral hearing consent[] to accept such motion orally." 28 C.F.R. § 68.11. Under 28 C.F.R. § 68.14(a)(2), which is the relevant rule for dismissal after parties reach a settlement agreement and agree to dismissal, the filing of a written motion also is not required. *Id.* § 68.14(a)(2) (explaining that the parties must "[n]otify" the ALJ that they "have reached a full settlement and have agreed to dismissal of the action"). The Court now finds that the parties' notification of settlement and their joint oral motion to dismiss pursuant to 28 C.F.R. § 68.14(a)(2) satisfy OCAHO's Rules. *See United States v. PJ's of Tex.*, 18 OCAHO no. 1524j, 5–6 (2026) (finding that the parties' joint oral motion to dismiss and notification of settlement during a prehearing conference satisfied 28 C.F.R. § 68.14(a)(2)).

On April 7, 2026, Complainant filed the parties' settlement agreement and, as the Court explained to the parties during the second prehearing conference on April 14, 2026, the Court has exercised its discretion pursuant to 28 C.F.R. § 68.14(a)(2) and considered it. *See* April 16, 2026 Order Memorializing Second Prehr'g Conf. 4–5. The settlement agreement on file with the Court bears the signatures of both

parties and Complainant’s counsel.⁶ Settlement Agreement 4. The agreement reflects a clear resolution of the violations of 8 U.S.C. § 1324a alleged in the complaint. Respondent has agreed to withdraw its written request for a hearing and waive its right to request a hearing before an ALJ. *Id.* ¶ 5. It has admitted “to failing to comply with the employment eligibility verification requirements in violation of ... 8 U.S.C. § 1324a(a)(1)(B),” as set forth in Count I and Count II of the complaint. *Id.* ¶ 6. Respondent also has agreed to pay a specific civil money penalty for the admitted violations. *Id.* ¶¶ 7, 9.

The Court is satisfied with the form and substance of the parties’ settlement agreement and accepts it, with the two caveats it explained to the parties during the April 14, 2026, prehearing conference. *See* Apr. 16, 2026, Order Memorializing Second Prehr’g Conf. 4–5. First, paragraph seven of the settlement agreement states that HSI “will issue a Final Order” that “is a final and unappealable order pursuant to [8 U.S.C. § 1324a(e)(3)(B)].” Settlement Agreement ¶ 7. However, the Court has explained that “8 U.S.C. § 1324a(e)(3)(B) allows for ‘a final and unappealable order’ only [i]f no hearing is ... requested.” *PJ’s of Tex.*, 18 OCAHO no. 1524j, at 7 (quoting 8 U.S.C. § 1324a(e)(3)(B)). “Because Respondent requested a hearing before OCAHO, ‘administrative review by the Chief Administrative Hearing Officer [CAHO] and the Attorney General are available.’” *Id.* (quoting *United States v. Bread Alone, Inc.*, 20 OCAHO no. 1604, 3 (2024)). The Court has attached to this Final Order of Dismissal appellate information concerning administrative review by OCAHO’s CAHO and the Attorney General, *see* 8 U.S.C. §§ 1324a(e)(7); 28 C.F.R. §§ 68.54(a)(1), 68.55, as well as petitions for review in the United States Court of Appeals for the appropriate circuit. *See* 8 U.S.C. §§ 1324a(e)(8); 28 C.F.R. § 68.56.

Second, paragraph ten of the settlement agreement states that “the Respondent will CEASE AND DESIST from any violations of [8 U.S.C. § 1324a].” Settlement Agreement ¶ 10. However, 8 U.S.C. § 1324a only provides a cease and desist order for hiring violations and not for paperwork violations. *See* 8 U.S.C. § 1324a(e)(4)(a); *see also United States v. Vasquez*, 15 OCAHO no. 1403, 2–3 (2021) (incorporating cease and desist remedy into final order only for hiring violations); *United States v. Torres Mexican Food, Inc.*, 4 OCAHO no. 596, 88, 89 (1994) (explaining that a cease and desist order is not available for paperwork violations). Here, the complaint alleges that Respondent failed to prepare and/or present Forms I-9 for nine individuals (Count I) and failed to ensure proper completion of Forms I-9

⁶ Specifically, the agreement on file with the Court was signed by the Acting Special Agent in Charge of ICE’s Homeland Security Investigations (HSI), counsel for Complainant, and Mr. Javier Mendoza, the president of the Respondent business. *Id.* The parties represented during the prehearing conference on April 14, 2026, that Mr. Jaime Mendoza would sign the agreement on behalf of the Respondent business, but that the substance of the agreement was identical to the copy on file with the Court. *See* Apr. 16, 2026, Order Memorializing Second Prehr’g Conf. 4.

for seventeen individuals (Count II), all in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶ 6. As such, the cease and desist remedy is not available in this case. *See* 8 U.S.C. § 1324a(e)(4)(a); *see also Torres Mexican Food, Inc.*, 4 OCAHO no. 596, at 89; *Vasquez*, 15 OCAHO no. 1403, at 2–3.

The parties request that the dismissal of this matter be without prejudice, although they have entered into a settlement agreement resolving the allegations raised in the complaint. “A dismissal without prejudice allows a complainant to refile a complaint as if it had never been filed.” *United States v. A-1 Roofing & Constr., Co.*, 21 OCAHO no. 1657b, 4 (2025) (citations omitted). On the other hand, dismissal with prejudice “would bar another prosecution based on identical facts.” *Id.* at 5 (citation omitted). Although a dismissal without prejudice could result in Respondent facing another lawsuit, the Court informed Respondent, through Mr. Jaime Mendoza, of the significance of a dismissal without prejudice and verified Respondent’s agreement to a dismissal without prejudice. *See* Apr. 16, 2026 Order Memorializing Second Prehr’s Conf. 4. The parties’ understanding as to dismissal is clear. *See id.*; *see also A-1 Roofing & Constr., Co.*, 21 OCAHO no. 1657b, at 5 (granting dismissal without prejudice when “the parties’ intent and agreement are clear”). Given the parties’ clear intent and agreement as to dismissal, the Court approves a dismissal without prejudice. *See United States v. R&V Steel Erectors Sys., Inc.*, 18 OCAHO no. 1501b, 1–2 (2024) (granting joint request for dismissal without prejudice brought pursuant to 28 C.F.R. § 68.14(a)(2) after the parties’ entry into a settlement agreement).

As the parties have agreed to dismissal pursuant to 28 C.F.R. § 68.14(a)(2), the Court denies as moot Respondent’s Motion to Dismiss Complaint (OCAHO Case No. 2023A00064) and its Amended Motion to Dismiss on Grounds of Violations of Procedures (the latter which amended its July 11, 2023, Motion to Dismiss on Ground of Violations of Procedures). This case is now dismissed without prejudice.

III. ORDERS

IT IS SO ORDERED that the joint oral motion for dismissal without prejudice made pursuant to 28 C.F.R. § 68.14(a)(2) during the second prehearing conference on April 14, 2026, by Complainant, the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement, and Respondent, Mendoza Maintenance Group, Inc., is GRANTED;

IT IS FURTHER ORDERED that Respondent’s Motion to Dismiss Complaint (OCAHO Case No. 2023A00064) and its Amended Motion to Dismiss on Grounds of Violations of Procedures are DENIED as moot; and

IT IS FURTHER ORDERED that, pursuant to 28 C.F.R. § 68.14(a)(2), this case, namely OCAHO Case No. 2023A00064, is DISMISSED without prejudice.

SO ORDERED.

Dated April 21, 2026.

Honorable Carol A. Bell
Acting Chief 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.