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

May 4, 2026

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 2024A00015
	)	
ZARCO HOTELS INCORPORATED,	)	
Respondent.	)	
	)	

Appearances: Jodie Cohen, Esq., for Complainant
Kian Zarrinnam, pro se Respondent

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DECISION, IN PART, AND ORDERING COMPLAINANT TO SHOW CAUSE

This case arises under the employment sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a.

I. PROCEDURAL HISTORY

On November 9, 2023, 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) against Respondent, Zarco Hotels Incorporated.

On January 3, 2024, Respondent filed its Answer along with a Motion to Dismiss, which was denied. *United States v. Zarco Hotels Inc.*, 18 OCAHO no. 1518b (2024).[1]

[1] Citations to OCAHO precedents in bound volumes one through eight include the volume and case number of the particular decision followed by the specific page in the bound volume where the decision begins; the pinpoint citations which follow are to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents after volume eight, 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 through the Westlaw database "FIM OCAHO," the LexisNexis database "OCAHO," and on the United States Department of Justice's website: https://www.justice.gov/eoir/office-of-the-chief-administrative-hearing-officer-decisions.

On June 25, 2024, Respondent filed a Motion for Summary Decision.[2] On September 26, 2024, Complainant filed a Motion for Leave to Amend Complaint.

On October 22, 2024, the Court held a prehearing conference, granted Complainant's Motion to Amend, and accepted Complainant's Amended Complaint. *United States v. Zarco Hotels, Inc.*, 18 OCAHO no. 1518d (2024).

The Amended Complaint alleges[3] Respondent "failed to prepare and/or present the Employment Eligibility Verification Form (Form I-9)… [or in the alternative] failed to properly complete Section 2 of the Form I-9 and/or correct technical failures," in violation of 8 U.S.C. § 1324a(a)(1)(B). *Id.*

On May 18, 2025, while the parties were still engaged in discovery and had cross-motions to compel before the Court, Respondent filed a Motion for Summary Decision.

The following day, the Court issued an Order in which it granted in part and denied in part both parties' motions to compel. *United States v. Zarco Hotels Inc.*, 18 OCAHO no. 1518i (2025).

On June 18, 2025, Complainant filed an Opposition to the Motion for Summary Decision.

On July 8, 2025, the Court denied Respondent's Motion for a Protective Order and granted leave to file a reply to Complainant's Opposition to its Motion for Summary Decision. *United States v. Zarco Hotels, Inc.*, 18 OCAHO no. 1518k (2025). In that Order, the Court explained the parties had represented the case was ready for consideration on summary decision and denied any motions related to discovery as moot. *Id.* at 2.

On July 18, 2025, Respondent Filed its "Reply to Complainant's Opposition to Respondent's Motion for Summary Decision."

On July 30, 2025, Complainant filed a "Motion to Seek Compliance with Discovery Order." The Court denied that motion and again explained that "[t]he time to raise discovery-related issues has passed." Sept. 3, 2025, Order Den. Complainant's Mot. Seeking Disc. 3.

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[2] Complainant filed an opposition to this Motion for Summary Decision on September 26, 2025. Respondent has since asserted that his Motion is moot because the Complaint was amended. Reply to Complainant's Opp'n to Mot. Summ. Decision. Therefore, the June 15, 2024, Motion for Summary Decision is DENIED as MOOT.

[3] Specifically, the Amended Complaint alleges three potential charging theories for nine employees, to wit: (1)"fail[ure] to prepare and/or present [Forms I-9];" (2) fail[ure] to properly complete Section 2;" or (3) "[failure] to correct technical failures." Am. Compl. 3-4; *see also* Opp'n to Mot. Summ. Decision Ex. H.

II. POSITIONS OF THE PARTIES

A. Respondent's Motion for Summary Decision (and Reply)

Respondent asserts it is not liable as charged in the Amended Complaint for several reasons.

Respondent argues it presented "over 30 years of original Form I-9s" and "attempted multiple times, through numerous emails," to provide certain Forms I-9 to the Homeland Security Investigations (HSI) Auditor, who refused to accept them. Reply to Opp'n to Mot. Summ. Decision 4.

Respondent also argues it was not the employer during the relevant period (based on its service agreements with a third-party company - an employment service provider). Respondent explains the service provider was "a separate legal entity responsible for [Form] I-9 compliance, payroll and payment of its employees."[4] Mot. Summ. Decision 9-10; Reply to Opp'n to Mot. Summ. Decision 3. From this position (that it was not the employer), Respondent argues there was no need to correct Forms I-9 from that third-party employment service provider. Respondent also notes (arguendo) the employees in question were terminated from the third-party company on December 20, 2010, so retention (by the third-party employer) was no longer required. Reply to Opp'n to Mot. Summ. Decision 4-5, 7-8.

Respondent next argues three of the nine "employees" are not employees at all – rather they are "are shareholders, officers, and directors of the company." Mot. Summ. Decision 11. Because of that status, Respondent argues it is not required to prepare or present Forms I-9 for those individuals. *Id.* at 10-11.

On penalty, Respondent characterizes the proposed penalty of $6,316.90 as "arbitrary, capricious, and excessive." Mot. Summ. Decision 11-12. If found liable, it argues the penalty should be mitigated due to its size, hardship it experienced during the COVID pandemic, and good faith attempts to comply with the law. *Id.* Respondent also argues Complainant's assessed penalty is "based on speculative aggravating factors." Reply to Opp'n to Mot. Summ. Decision 9. It argues no unauthorized employees were knowingly hired and "any discrepancies stemmed from clerical errors by [the third-party employment service provider]." *Id.*

In support of its Motion and Reply, Respondent attaches exhibits, which will be further analyzed in a following section.

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[4] It asserts that six employees were hired by Ramada Hollywood, terminated by Ramada Hollywood, hired by a third-party company called "CPE" on July 31, 2003, terminated by CPE on December 20, 2010, and hired by Respondent-business on December 20, 2010. Mot. Summ. Decision 6-7.

Respondent asserts it "is not responsible or liable to prepare, complete, or provide corrected Form I-9[s]" for when employees were employed by CPE. *Id.* at 10.

B. Complainant's Opposition

Complainant argues "there are genuine issues of material fact that necessitate the case to be set for a hearing." Opp'n 3; Am. Compl. 4. Complainant argues that, because Respondent's attached exhibits were novel to Complainant, that an issue of material fact per se exists. Opp'n 6. Specifically, Complainant argues that new documents relate to new dates of hire when Respondent changed its name to Zarco Hotel, Incorporated. *Id.* at 7.

Complainant disputes Respondent's claim regarding the three individuals with ownership interests. *Id.* at 7-8. Further, Respondent "seems to misunderstand the [Form] I-9 retention period requirement," and explains that employers are required to retain a Form I-9 for current employees regardless of the duration of their employment. *Id.* at 8 (citing *United States v. Intelli Transp. Servs., Inc.*, 13 OCAHO no. 1319, 4 (2019)).

Complainant argues that the statute of limitations does not bar the charges raised in the Amended Complaint. *Id.* at 9.

Finally, Complainant defends its proposed penalty. *Id.* at 9-14. Complainant argues it accounted for the size of the business and argues the penalty should be aggravated due to the seriousness of the violations and the presence of unauthorized individuals. *Id.* at 11-14.

III. EVIDENCE CONSIDERED

At the outset, the Court will analyze the evidence offered by both parties.

To conduct its evidentiary analysis, "[t]he Court must ensure that evidence is sufficiently reliable, and then it must consider what weight, if any, to assign the evidence based on its probative value."[5] *United States v. R&SL, Inc.*, 13 OCAHO no. 1333b, 24 (2022). The evidence considered by the Court will serve as the basis for factual findings made in a later section.

[5] For documentary evidence to be reliable, its proponent must "authenticate [the] document by evidence sufficient to demonstrate that the document is what it purports to be[.]" *United States v. Carpio-Lingan*, 6 OCAHO no. 914, 1, 5 (1997) (citations omitted).

Generally, documentary evidence that is complete, signed, sworn under penalty of perjury, dated, authenticated, laid down with foundation contain sufficient indicia of reliability. *See United States v. Psychosomatic Fitness LLC*, 14 OCAHO no. 1387a, 5–7 (2021).

"Probative value is determined by how likely the evidence is to prove some fact[.]" *United States v. Commander Produce, LLC*, 16 OCAHO no. 1428d, 9 n.15 (2023) (citation omitted).

A. Respondent's Evidence[6]

Along with its Motion for Summary Decision (and Reply), Respondent provides several exhibits[7] for the Court's consideration, including: several Forms I-9 per individual for all individuals identified in the Count; a 2003 Client Services Agreement between Respondent and "CPE" for "professional employer organization services" and corporate documents for "CPE;" affidavits with generic statements about issuance of shareholder shares of Respondent; State of California (Secretary of State's Office) Statement of Information Forms identifying officers and directors of Respondent; and email correspondence between Respondent and HSI. Respondent also filed a business entity questionnaire and a receipt for property from DHS along with its Reply to Complainant's Opposition. Resp. Reply 11-13.[8]

The affidavits from Individuals 7-9 (Resp Ex. 3, p. 66-68) are reliable, as they are signed, dated and notarized. *See Psychosomatic Fitness LLC*, 14 OCAHO no. 1387a, at 5–7. However, they are minimally probative, as they were written by interested parties after the initiation of these proceedings and provide few details about the extent of their ownership interest in the company and the dates when shares of common stock were issued. *See Commander Produce, LLC*, 16 OCAHO no. 1428d, at 9 n.15.

The corporate documents of third-party employment services provider "CPE" (Resp. Ex. 2, p. 52-64) are also reliable, in that they are signed and dated, and most are documents stamped as filed with the California Secretary of State's office or were generated by the State of California. *See United States v. Klein's Kosher Pickle Co.*, 18 OCAHO no. 1500b, 6 (2026) (finding "signed" documents and "forms published by a government agency" to be reliable). However, the documents have limited probative value because they don't provide information about the employer-employee relationship between Respondent or CPE and the individual employees at issue.

The Court finds the remaining documentary evidence that Respondent presented to be reliable (to the extent the documents are signed, printed on the issuer's letterhead, or published by a government agency). In each case, it is clear "that the document is what it purports to be[.]" *Carpo-Lingan*, 6 OCAHO no. 914, at 5. Moreover, these reliable documents are highly probative, as "each is likely to assist the Court in making a factual determination relative to whether Complainant can meet its burden on liability and penalty." *Klein's Kosher Pickle Co.*, 18 OCAHO no. 1500b, at 6.

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[6] The Court will first analyze the evidence provided by the Respondent, as Respondent is the moving party. To be fully successful in summary decision, Respondent must provide evidence to sufficiently develop the record (with that sufficiently developed record showing no genuine issue of material fact). Once that factual threshold is established, the Court will consider whether the moving party is entitled to judgment as a matter of law.

[7] While the Exhibits were sent as separate files with the Motion for Summary Decision, in the Court's record, all exhibits were combined with the Motion, resulting in a 105-page document. Page number references in this Order are to the combined file (vice the specific page of the exhibit).

[8] Citations to the evidence attached to Respondent's Reply are to the pages of the combined PDF of Respondent's brief and its attachments

B. Complainant's Evidence

Complainant provides several exhibits,[9] including: articles of incorporation for Respondent, the Notice of Inspection, the Notice of Technical or Procedural Failures, email correspondence between Respondent and HSI, the Notice of Intent to Fine, a Current Employee Listing, Respondent's request for hearing, and the amended complaint.

While the Current Employee Listing (Opp'n Ex. F, 49) lacks a date or any information about the company to which it refers, Complainant represents that the document was provided by Respondent. Opp'n to Mot. Summ. Decision 4. Respondent did not dispute Complainant's assertion or challenged the reliability of the document in its Reply. The Court finds it sufficiently reliable to admit. *See* 28 C.F.R. § 68.40(c)[10] (explaining the process to object to the admission of evidence). However, given that it is undated and Complainant has not provided information about when it was received, it has minimal probative value. *See Commander Produce, LLC*, 16 OCAHO no. 1428d, at 9 n.15.

The remaining evidence (Opp'n Ex. A-E, G-H) is reliable, as most documents are signed or bear markings that identify them as government documents and the documents are clearly what they purport to be. *Carpo-Lingan*, 6 OCAHO no. 914, at 5. The evidence is also likely to assist the Court in making relevant factual determinations and is therefore probative. *Klein's Kosher Pickle Co.*, 18 OCAHO no. 1500b, at 6.

IV. FINDINGS OF FACT

A. Structure, Organization, and History of Respondent Business

1. On November 3, 1994, Zarco Hotels, Incorporated filed Articles of Incorporation with the California Secretary of State's office. Opp'n Ex. A, p. 18.
2. Zarco Hotels, at least in 2003, did business as "Ramada Inn – Hollywood." Resp't Ex. 2, p. 44.
3. Zarco Hotels, at least in 2010, did business as "Hollywood Hotels." Resp't Ex. 2, p. 51.
4. As early as 2003, Individual 8[11] served as General Manager. Resp't Ex. 2, p. 48
5. Zarco Hotels, at least in 2018, 2022, 2023, and 2024, had the following individuals as officers or directors (as cross-referenced in the Amended Complaint): Individual 7 as a Director; Individual 8 as Chief Executive Officer and a Director; and Individual 9 as Chief Financial Officer, Secretary, and a Director. Resp't Ex. 3, p. 69, 73-77.

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[9] Complainant's exhibits were attached to its Opposition to Respondent's Motion for Summary Decision. Page number references in this Order are to the combined PDF file (vice the specific page of the exhibit).

[10] The OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2026), are available in the Electronic Code of Federal Regulations. *See* https://www.ecfr.gov/current/title-28/chapter-I/part-68.

[11] Individuals 7, 8, and 9 are references to the number assigned in the Amended Complaint Charge.

6. Zarco Hotels, at least in 2020 and 2021, filed a "Corporation – Statement of Information No Change" with the California Secretary of State bearing the signature of Individual 9. Resp't Ex. 3, p. 71-72.

B. From July 16, 2003, through December 3, 2010, "CPE" Employed Individuals 1 Through 6 Based On Its Client Services Agreement With Respondent.

7. On July 16, 2003, Zarco Hotels (d/b/a Ramada Inn – Hollywood) entered into a Client Services Agreement with Benedict Canyon Productions (d/b/a CPE).[12] Resp't Ex. 2, p. 44
8. Individual 8 signed the agreement on behalf of Zarco Hotels as General Manager. Resp't Ex. 2, p. 48.
9. CPE refers to itself as an "independent contractor," who provides "professional employer organization services to [Respondent] via staff commonly referred to as 'Shared-Employees.'" Resp't Ex. 2, p. 44.
10. The Agreement expressly states the parties "acknowledge that each is entering into an employment relationship with respect to the 'Shared Employees;' [and that Respondent] shall have sole and exclusive control over the day-to-day job duties of all Shared Employees…" Resp't Ex. 2, p. 46.
11. While the employees are described as "shared," the Agreement explains "an employment relationship is being established between Company [CPE] and the shared employees," and CPE "***is an employer under Section 3401(d) of the [Internal Revenue Code of 1986] as controlling the payment of wages.***" Resp't Ex. 2, p. 46. (emphasis added).
12. According to the Agreement, CPE "***retain[ed] authority to hire, terminate, discipline, and reassign the Shared-Employees***." Resp't Ex. 2, p. 46. (emphasis added).
13. According to the Agreement, Respondent, as the "On-Site Supervisor," directed "operational and administrative matters on a day-to-day basis … with direction from [CPE's] Huaman Resources Department." Resp't Ex. 2, p. 46.
14. In exchange for the Administration Fee, the Respondent business received "payroll administration… workers' compensation management… employee benefits plans, [and] human resources management [to include] ***assistance with*** federal immigration laws and compliance…" Resp't Ex. 2, p. 49 (emphasis added).
15. Forms I-9 were created for seven of the nine Individuals (all but Individuals 7 and 8) named in August 2003 listing employer "CPE." Resp't Ex. 1, p. 17-35.
16. On December 3, 2010, CPE HR provided a 30-day notice to Zarco Hotels, providing 30 days' notice it intended to "terminate its 'shared-employee' Client Services Agreement" effective January 3, 2011. Resp't Ex. 2, p. 51.
17. The termination letter was addressed to Individual 9. Resp't Ex. 2, p. 51.
18. From July 16, 2003 to on or about December 2010, CPE was the employer of the individuals at issue, and it was responsible for its employees' Forms I-9.

C. Forms I-9 Existed for the Nine Individuals Named in the Amended Complaint

1. All nine individuals named in the Count completed a Form I-9 between 1994 and 1997 for employer Ramada Inn – Hollywood. Resp't Ex. 1, p. 16-42.

[12] According to Articles of Incorporation for Benedict Canyon Productions, Inc. filed in 2005, the corporation changed its name to "CPE HR, Inc." Resp't Ex. 2, p. 55.

2. Seven of the nine individuals (all but employees 7 and 8) named in the Count completed a Form I-9 in August 2003 for employer "CPE." Resp't Ex. 1, p. 17-35
3. All nine individuals named in the Count completed a Form I-9 in December 2010 for employer "Hotel Hollywood." Resp't Ex. 1, p. 18-42.
4. Each of those 2010 Forms I-9 had all sections completed, and completed properly. Resp't Ex. 1, p. 18-42.

D. DHS Inspection & Audit

5. On August 1, 2019, an HSI Special Agent personally served Respondent with a Notice of Inspection. Opp'n Ex. B, p. 20-21.
6. The Notice of Inspection explained that HSI "has scheduled an inspection for your Forms I-9 for a date agreed upon." Opp'n Ex. B, p. 20.
7. At the time of service of the Notice of Inspection, HSI informed Respondent it would be required to produce Forms I-9 for all "current employees as of the most recent payroll date." Opp'n Ex. B, p. 20.
8. The Notice of Inspection did not provide deadlines for any action to be taken by Respondent. Opp'n Ex. B p. 20.
9. Respondent produced "51 Original Forms I-9" on August 19, 2019. This was memorialized in a "Receipt for Property" issued to Respondent by DHS. Resp't Reply 13.
10. Based on the receipt alone, it is possible the Forms I-9 prepared in December 2010 for the employees named in the Charge were included with the 51 Forms. Resp't Reply 13.
11. At an unknown date, DHS received a list of Respondent's employees (possibly via payroll documents, but DHS does not provide evidence to that effect). Opp'n Ex. F.
12. On either July 29, 2020, or July 31, 2020,[13] a Supervisory Special Agent signed a Notice of Technical or Procedural Failures addressed to Respondent. Opp'n Ex. C, p. 23-24.
13. The Notice of Technical or Procedural Failures explained that ten (unknown) Forms I-9 were returned because they "contain technical or procedural failures." Opp'n Ex. C, p. 23.
14. The Notice of Technical or Procedural Failures did not identify the specific Forms I-9 with alleged technical or procedural failures, but it did state annotated copies were attached (but were not included with the Exhibit, or generally as an attachment to the Motion, Opposition, or Reply). Opp'n Ex. C, p. 23-26.
15. The Notice of Technical or Procedural Failures gave Respondent "10 business days from the date of this notice to correct the highlighted or circled failures on the accompanying Forms I-9."[14] Opp'n Ex. C, p. 25.
16. Between July 1, 2021, and May 8, 2023, Respondent and HSI Auditors engaged in a series of email communications. Resp. Ex. 4, p. 80-97; Opp'n Ex. D, p. 30-41.

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[13] The Notice also contains a hand-written date of July 31, 2020, but the Supervisory Special Agent's digital signature is dated July 29, 2020. Complaint Ex. C, p. 23, 25.

[14] From Complainant's submissions, it is not clear when Respondent received this Notice. Complainant attached United States Postal Service tracking information, but it is not clear that it corresponds to the Notice. One tracking document includes a hand-written notation that states "3 Notices Served by Certified Mail," and indicates that a package was delivered to an address in Los Angeles, California, on September 8, 2020. Opp'n Ex. C, p. 27-28.

17. On July 1, 2021, an HSI Auditor informed Respondent that "fieldwork on open cases" resumed due to "the improved pandemic situation." Resp't Ex. 4, p. 95; Opp'n Ex. D p. 41.
18. On July 22, 2021, Respondent emailed the HSI Auditor that he "was unable to correct the highlighted or circled failures on the accompanying Forms I-9 under the Notice of Technical or Procedural Failures," because Respondent viewed it as "fraud;"[15] however, he "was willing to provide [HSI] the proper [Forms I-9]" for certain individuals. Resp't Ex. 4, p. 90-91; Opp'n Ex. D p. 37-40.
19. On August 5, 2021, the HSI Auditor emailed Respondent, requesting "corrected" Forms I-9 by August 12, 2021. Resp't Ex. 4, p. 83-4; Opp'n Ex. D, p. 33.
20. On August 12, 2021, Respondent emailed the Auditor to relay the "corrections" requested relate to Forms I-9 of CPE, a separate business. Respondent offered to "provide [HSI] the proper Forms I-9." Resp't Ex. 4, p. 82-3; Opp'n Ex. D, p. 32-33.
21. On September 1, 2021, the HSI Auditor emailed Respondent to relay his disagreement (i.e. the HSI Auditor believed Respondent was the employer). Opp'n Ex. D, p. 30-31.
22. On September 10, 2021, Respondent replied via email that he "will not and cannot oblige with [the Auditor's] inappropriate requests to commit fraud," and he was "willing to provide [HSI] the proper Forms I-9[]." Opp'n Ex. D, p. 30.

E. Notice of Intent to Fine Issued and OCAHO Hearing Requested

23. On June 29, 2023, HSI served Respondent with a Notice of Intent to Fine Pursuant to Section 274A of the Immigration and Nationality Act. Opp'n Ex. E, p. 43-47.
24. On July 14, 2023, DHS received Respondent's request for a hearing before OCAHO, which was signed by Individual 9. Opp'n Ex. G, p. 51-53.

V. CONCLUSIONS OF LAW

A. Propriety of Summary Decision – Law & Analysis

OCAHO regulations allow for resolution of cases via summary decision when "the pleadings, affidavits, material obtained . . . show that there is no genuine issue as to any material fact, and that [the moving] party is entitled to summary decision." 28 C.F.R. § 68.38(c).

"Once the moving party satisfies its initial burden of demonstrating both the absence of a material factual issue and that the party is entitled to judgment as a matter of law, the nonmoving party must come forward with contravening evidence to avoid summary resolution." *United States v. Four Seasons Earthworks, Inc.*, 10 OCAHO no. 1150, 3 (2012) (*citing Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). The Court views all facts and inferences "in the light most favorable to the non-moving party." *United States v. Primera Enters.*, 4 OCAHO no. 615, 259, 261 (1994) (citations omitted).

[15] According to Respondent (and uncontroverted by Complainant), these Forms I-9 were completed by "CPE," not Respondent business.

Complainant argues there are genuine issues of material fact; however, its arguments are predicated on its position that Respondent was the continuous employer (vice a break in employment because of the service agreement with CPE) of the employees and individuals named in the Charge. As the record bears out, that fact (who is the employer) – while material – is not in dispute. The employees at issue were first employed by Respondent, then employed by CPE, and then re-employed (in 2010) by Respondent.

However, there does remain a potential genuine issue of material fact (further explained below), and thus, the moving party (Respondent) cannot show – at this juncture, he is entitled to judgement as a matter of law on each allegation within the Count.

The analysis, doesn't, however, end here.

The burden at hearing rests with Complainant. *See R&SL Inc.*, 13 OCAHO no. 1333b, at 29-30. So, if Complainant cannot proffer or otherwise demonstrate how it could meet its burden at hearing, it is still possible to resolve this case without a hearing (and, ultimately, in favor of Respondent). It is for this reason that this Order also contains an Order to Complainant to Show Cause (further explained in following sections).

Each Law & Analysis section that follows identifies the material facts not in dispute and explains whether the Court can conclude Respondent is entitled to judgment as a matter of law, or whether such a finding is possible, but premature (and, thus warranting an Order to Show Cause directed at Complainant).

B. Law & Analysis - No Liability for Those With Ownership Interest (Individuals 7, 8, 9)

"As a general rule, OCAHO case law has recognized that an individual is not an employee of an enterprise if he or she has an ownership interest in, and control over, all or part of the enterprise." *Intelli Transp. Services, Inc.*, 13 OCAHO no. 1319, at 4 (quoting *United States v. Alpine Staffing, Inc.*, 12 OCAHO no. 1303, 11 (2017).

In this case, sufficient undisputed facts exist demonstrating Individuals 7, 8, and 9 have an ownership interest in the Respondent business. Each is listed as either an officer or director in corporate documents filed with the state of California. Resp't Ex 3, p. 69, 73-77. This alone is sufficient to establish ownership interest. Additionally, Individual 8 has the authority to execute agreements on behalf of Respondent. Resp't Ex. 2, p. 48. Individual 9 signed corporate documents that were filed with the state of California and has represented Respondent (pro se) in these proceedings. Resp Ex 3, p. 71-72.; Resp Ex 4; Mot. Summary Dec. 13. *See Intelli Transp. Servs. Inc.*, 13 OCAHO no. 1319, at 4.

As to Individuals 7, 8, and 9 Respondent's Motion for Summary Decision is GRANTED, in part, and Respondent is not liable for any violations associated with these individuals.

C. Law & Analysis - No Liability for Form I-9 Violations for Third Party Employer (CPE)

DHS regulations define "employer" as "a person or entity, including an agent or anyone acting directly or indirectly in the interest thereof, who engages the services or labor of an employee to be performed in the United States for wages or other remuneration." 8 C.F.R. § 274a.1(g); *see also R&SL Inc.*, 13 OCAHO no. 1333b at 46-47.

The regulations specifically provide that when "contract labor or services" are at issue, "the term employer shall mean the … contractor and not the person or entity using the contract labor." 8 C.F.R. § 274a.1(g); *see also United States v. Employer Solutions Staffing Grp. II, LLC*, 11 OCAHO no. 1242, 2 (2015), *vacated for other reasons by Emp. Sols. Staffing Grp. II, L.L.C. v. Off. of Chief Admin. Hearing Officer*, 833 F.3d 480, 483 (5th Cir. 2016).[16]

Here, Respondent entered into a contractual agreement for labor services with CPE from 2003 to 2010.[17] Resp't Ex. 2, p. 44, 51. While the agreement referenced "shared employees," it also articulated it CPE "retain[ed] authority to hire, terminate, discipline, and reassign the Shared-Employees." Resp't Ex. 2, p. 46. Additionally, "an employment relationship [was] established between [CPE] and the shared employees," and CPE "[was] the employer under Section 3401(d) of the [Internal Revenue Code of 1986] as controlling the payment of wages." *Id.*

From 2003 until the termination of the contractual arrangement in 2010, record evidence makes clear Respondent was not the employer of Individuals 1 through 6.

As to Individuals 1 through 6, Respondent's Motion for Summary Decision is GRANTED, in part. Respondent is not liable for any violations arising from Forms I-9 generated by CPE (pre-2010).[18]

D. Law & Analysis – Respondent Did Prepare Forms I-9 in 2010.

Respondent submitted multiple Forms I-9 for each Individual 1 through 6. Am. Compl. 3; Resp't Ex. 1, p. 17-35. Germane to the analysis here are the Forms I-9 generated in 2010[19] when these

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[16] In *Employer Solutions Staffing,* DHS determined the third-party human resources company "was the actual employer," and ultimately brought a complaint against that company. *Id.* at 1-2.

Although the client company "recruited, screened, interviewed, and hired" the individuals discussed in the complaint, the Court found it "acted as an agent" of the human resources company and determined the third-party human resources company was liable for the violations. *Id.* at 14-15.

[17] CPE employed Individuals 1 through 6. Am. Compl. 3; Resp't Ex. 1, p. 17-35.

[18] Stated a different way, to the extent it was these Forms I-9 which generated the "failure to correct technical failures" Charge (for Individuals 1 through 6), this Charge cannot be sustained on this record.

[19] Earlier Forms I-9 that bear the business name "Ramada Hollywood" are not relevant because the employees were terminated by Respondent in 2003 prior to being hired by CPE. Resp. Ex. 1, p. 16, 19, 22, 25, 28, 31.

individuals were employed by Respondent (following the termination of the agreement with CPE). These 2010 Forms I-9 reference Respondent as "Hollywood Hotel." Resp't Ex. 1, p. 18, 21, 24, 27, 30, 33.

A careful review of the 2010 Forms I-9 for Individuals 1 through 6 reveals that all Sections were fully completed.

Specifically, for Individuals 1, 2, 4, and 5, Section 2 is complete (listing a California driver's license for List B and a Social Security card for List C) and signed by Individual 9 as the personnel manager on behalf of Respondent. Resp't Ex. 1, p. 1, 21, 27, 30). For Individual 3, Section 2 is complete (listing an unexpired Permanent Resident Card for List A) and signed by Individual 9 as the personnel manager on behalf of Respondent. Resp't Ex. 1, p. 24. For Individual 6, Section 2 is complete (listing a California state identification card for List B and a Social Security card for List C) and signed by Individual 9 as the personnel manager on behalf of Respondent. Resp't Ex. 1, p. 33.

As to Individuals 1 through 6, Respondent's Motion for Summary Decision is GRANTED, in part, and Respondent is not liable for any "failure to prepare" Forms I-9 as it has shown that the forms were prepared (including Section 2, which was referenced in the Charge) for all relevant employees in 2010. *Id.*

E. Law & Analysis – Were Forms I-9 at Issue Presented at the Time of Inspection?

On this record, the Court can establish that the six Forms I-9 existed and were properly completed. The Court can also establish that 51 Forms I-9 were presented to the HSI auditor. It is possible these six Forms I-9 were included in the 51 presented Forms. It is also possible they weren't.

At summary decision, the burden rests with the moving party (here the Respondent), and the Court must defer when it applies a "light most favorable to the non-moving party" standard. *See Primera Enters.*, 4 OCAHO no. 615, at 261.

That deference, however, does not extend to the hearing,[20] where it is Complainant who shall bear the burden of demonstrating those six Forms I-9 were not included in the 51 presented by Respondent business. *See R&SL Inc.*, 13 OCAHO no. 1333b, at 29-30.

These same individuals were then re-hired by Respondent upon termination of the agreement with CPE in 2010. During the time they were employed with CPE, the retention period for the earlier Forms I-9 expired. *See* 8 U.S.C. § 1324a(b)(3) (explaining employers are required to retain completed Forms I-9 for former employees for three years after the date of hire or one year after the date of termination, whichever is later); *see also United States v. R2M2 Rebar & Stressing, Inc.*, 14 OCAHO no. 1357, 4 (2020).

[20] To be clear, it is the Respondent's hearing based on the plain language in the statute – not the Complainant's. *See* 8 U.S.C. § 1324a(e)(3)(A) (providing that the "person or entity" charged with a violation must be provided the opportunity to request "a hearing respecting the violation").

At present, the only evidence upon which the Court can rely is the woefully inadequate "receipt" generated by Complainant. This is not the first instance an unacceptably vague receipt has presented an evidentiary issue in worksite compliance cases.[21]

If Complainant's failure to sustain its burden at hearing is inevitable, then a finding in Respondent's favor is appropriate. It is this practical reality that drives the Court to now issue an Order to Show Cause to Complainant.

VI. ORDER TO SHOW CAUSE

Within 14 days of the date this Order is issued, Complainant shall submit to the Court and serve on Respondent evidence demonstrating the six Forms I-9 (Individuals 1 through 6 generated in 2010) were not included in the 51 Forms I-9 provided (as memorialized in the Receipt).

If Complainant fails to provide this evidence, the Court will issue a Final Order finding no liability for failure to present these Forms I-9.

If Complainant provides evidence, but that evidence makes clear Complainant would still not be able to meet its burden at hearing, the Court will issue a Final Order finding no liability for failure to present these Forms I-9

If Complainant provides evidence which demonstrates it may be able to meet its burden at hearing, the Court will set the matter for a prehearing conference to discuss next steps.

SO ORDERED.

Dated and entered on May 4, 2026.

____
Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

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[21] In *R&SL Inc.*, the Court explained:

> Complainant's receipt, while useful in demonstrating the arrival of a specific number of boxes, has little utility to the Court as the issue here is the number of forms in those boxes. Testimony suggests that the receipt's level of specificity was consistent with Complainant's internal policy.
>
> Indeed, it would have been a labor-intensive process for one auditor to account for thousands of I-9 forms by herself. However, on balance, Complainant also valued each of those forms at $1,457.30 per form, and thus valued the missing I-9 forms in this case at $744,680.30. If the boxes contained the cash equivalent, it seems unfathomable that such a receipt from the federal government would be sufficient.
>
> Ultimately, the decision to account for these valuable pieces of paper in a more detailed fashion (or not) in future inspections is squarely within the purview and discretion of [DHS].

Id. at 31 n.47.