

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. 2026A00043
JORGE MATA, LLC,	)	
D/B/A EL SOMBRERO,	)	
	)	
Respondent.	)	
	)	

Appearances: Kenneth R. Knapp, Esq., for Complainant
Jorge Mata, LLC, Respondent

FINAL ORDER OF DISMISSAL

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 April 13, 2026. Complainant alleges that Respondent, Jorge Mata, LLC, doing business as El Sombrero, failed to ensure that employees properly completed section 1 and/or failed to properly complete section 2 or 3 of the Employment Verification Form (Form I-9) for fifteen employees, or, in the alternative, failed to prepare in a timely manner the Forms I-9 for fifteen employees (Count I), in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. ¶¶ 4–11.

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 on October 16, 2025, at an address in Rapid City, South Dakota, through Mr. Jorge Mata, who was identified as the business owner. Compl. Ex. A. Through the NIF, DHS sought a fine of \$36,480 for Respondent's alleged violations. *Id.* 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.* Also attached to the complaint was a letter dated October 31, 2025, signed by Ms. Ivy J. Stager who identified herself as a senior accounting associate with the Black Hills CPA Group, LLP, in which she stated that “Jorge is requesting a hearing concerning Notice of Intent to Fine” (request for hearing). *Id.* Ex. B. Neither the letter nor the complaint indicated when DHS received the letter. A footnote in the complaint explained that, although “[n]o Notice of Entry of Appearance (Form G-28) accompanied this request ... DHS will accept this as a Request for Hearing” and give Respondent “the benefit of the doubt.” *Id.* ¶ 2 n.1.

Pursuant to 28 C.F.R. § 68.7(b)(5),¹ Complainant asked OCAHO to serve the complaint on Respondent’s owner, Mr. Jorge Mata, at the address in Rapid City, South Dakota, identified for the business in the NIF. Compl. 8; *id.* Ex. A.

On April 15, 2026, 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”). Through the NOCA, OCAHO’s Deputy Chief Administrative Hearing Officer (Deputy CAHO) informed Respondent that these proceedings would be governed by OCAHO’s Rules of Practice and Procedure for Administrative Hearings 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 Deputy CAHO directed Respondent to answer the complaint within thirty days in accordance with 28 C.F.R. § 68.9(a). *Id.* ¶ 4. The Deputy 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

¹ OCAHO’s Rules of Practice and Procedure for Administrative Hearings, being the provisions contained in 28 C.F.R. part 68 (2026), 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>.

Form (PS Form 3811) (“return receipt”). The USPS certified mail tracking information for the complaint package mailed to Respondent’s business address indicated that it was “picked up at the post office” in Rapid City, South Dakota, on April 29, 2026. OCAHO also received a USPS return receipt for the delivery confirming a delivery date of April 29, 2026, with the printed name and signature of Jorge Mata-Diaz. To date, Respondent has not filed an answer to the complaint.

On June 4, 2026, the Court issued a Notice and Order to Show Cause. *See United States v. Jorge Mata, LLC*, 22 OCAHO no. 1711 (2026).³ The Court found that OCAHO perfected service of the complaint package on Respondent on April 29, 2026. *Id.* at 5. 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 complaint was due no later than May 29, 2026. *Id.* (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 Deputy CAHO made in the NOCA that Respondent’s failure to file an answer may lead the Court to enter a judgment by default. *Jorge Mata, LLC*, 22 OCAHO no. 1711, at 5 (citing Notice of Case Assignment at 4 (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, 445–46 (1989), Respondent would need to demonstrate good cause to avoid entry of default. *Id.* at 5–6. The Court ordered Respondent, within twenty-one days of the issuance of the Notice and Order to Show Cause, to file an answer and show good cause for its failure to file a timely answer. *Id.* at 6. The Court specified that Respondent’s response to the Notice and Order to Show Cause and answer must be filed by June 25, 2026. *Id.*

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. *Jorge Mata, LLC*,

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 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>.

22 OCAHO no. 1711, at 6 (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 7. 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 were due on June 25, 2026. 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 hearing.

II. REGULATORY AND LEGAL STANDARDS

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.” *Id.* § 68.37(b). In cases where a party or its representative “fails to respond to orders issued by the [ALJ],” 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 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 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, 5–6 (2024) (dismissing case for

abandonment of respondent's request for hearing after the ALJ warned respondent of the potential consequences of not responding to the ALJ's orders); *United States v. Super Good Movers, LLC*, 22 OCAHO no. 1674a, 5 (2025) (accord); *see also Rodriguez v. Tyson Foods, Inc.*, 9 OCAHO no. 1109, 3 (2004) (dismissing complaint for abandonment due to 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

Respondent has failed to participate in this litigation which arose from the written request for hearing to DHS dated October 31, 2025,⁴ after service of the NIF on October 16, 2025. *See* Compl. Ex. B. Complainant filed a complaint with this Court on April 13, 2026, in response to Respondent's request for hearing, and then OCAHO perfected service of the Complaint package, including the NOCA, on Respondent on April 29, 2026, in accordance with OCAHO's Rules of Practice and Procedure for Administrative Hearings.⁵ *See* 28 C.F.R. § 68.3(a)(3). Through the NOCA, Respondent received OCAHO's contact information and links to both OCAHO's Rules and its Practice Manual. *See* Notice of Case Assignment ¶ 2. Respondent, however, has not contacted OCAHO or filed an answer to the complaint or a response to the Court's Notice and Order to Show Cause. It has ignored the Court's orders. For the reasons set forth below, Respondent's inaction results in dismissal.

⁴ Although the letter requesting a hearing was not from Respondent directly, DHS said that it would "accept this as a Request for Hearing" and give Respondent "the benefit of the doubt." Compl. Ex. B ¶ 2 n.1. While the request for hearing was dated October 31, 2025, the date of its receipt by DHS controls. *See* 8 C.F.R. § 274a.9(e) (explaining that "[a] request for a hearing is not deemed to be filed until received by the Service office designated in the Notice of Intent to Fine."). DHS, however, did not indicate when it received the request for hearing.

⁵ The Court notes that over five months elapsed between Respondent's request for hearing on October 31, 2025, and Complainant's filing of the complaint against Respondent with OCAHO on April 13, 2026. *See* Compl. Ex. B. Although a few months passed between the request for hearing and Complainant's filing of the complaint commencing these proceedings, that passage of time 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 respondent's request for 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").

The Court finds that Respondent 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 Deputy 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* Notice of Case Assignment ¶ 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 Deputy CAHO gave Respondent, *see id.* ¶ 2, also describe dismissal for abandonment pursuant to 28 C.F.R. § 68.37(b). Additionally, as noted above, the Deputy CAHO provided Respondent with contact information for OCAHO and a link to OCAHO's Practice Manual. *Id.* Respondent did not utilize these resources or heed the Deputy CAHO's instruction and warning.

Second, through its Notice and Order to Show Cause, the Court put Respondent on notice of the potential outcome—dismissal for abandonment or entry of a default judgment—if it failed to file an answer and respond to the Court's orders. *See Jorge Mata, LLC*, 22 OCAHO no. 1711, at 6–7. 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 Deputy 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.* (citing 28 C.F.R. § 68.9(b)); *see also* Notice of Case Assignment ¶ 4. It explained that it would enter a judgment for Complainant without a hearing. *Jorge Mata, LLC*, 22 OCAHO no. 1711, at 5 (citing *Nickman v. Mesa Air Grp.*, 9 OCAHO no. 1106, 1 (2004)).

Respondent did not heed the notices and warnings by the Deputy CAHO and this Court. Respondent has not contacted OCAHO or 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. This case has come to a standstill.

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 or 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) (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]’” (quoting 28 C.F.R. § 68.37(b)).

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. Alcocer, LLC*, 22 OCAHO no. 1678a, 4–7 (2025) (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); *Super Good Movers, LLC*, 22 OCAHO no. 1674a, at 5–7 (accord); *United States v. Sai Enter. Ltd.*, 18 OCAHO no. 1489a, 5–7 (2024) (accord); *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, 1–2 (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 April 13, 2026, and Respondent’s request for hearing. 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 October 16, 2025, 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 April 13, 2026, with the Office of the Chief Administrative Hearing Officer by Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, and the request for hearing by Respondent, Jorge Mata, LLC, doing business as El Sombrero, 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, Jorge Mata, LLC, doing business as El Sombrero, on October 16, 2025, is rendered the final agency order.

SO ORDERED.

Dated July 1, 2026.

Honorable Carol A. Bell
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.