

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

August 3, 2026

UNITED STATES OF AMERICA	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324a Proceeding
	)	OCAHO Case No. 2026A00028
	)	
FINEST VAPOR GARNERVILLE, INC.,	)	
Respondent.	)	
	)	

ORDER OF DEFAULT JUDGMENT

I. BACKGROUND

This case arises under arises under the employer sanction provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) alleges that Respondent Finest Vapor Garnerville, Inc. violated the Section 274A(a)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. §1324a(a)(1)(B), by failing to prepare and/or present Forms I-9 for three persons. Complainant filed its complaint on March 23, 2026.

On March 26, 2026, this office issued to Respondent a Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA) and a copy of the Complaint (collectively the complaint package) via certified U.S. mail. The NOCA directed that an answer was to be filed within 30 days of receipt of the Complaint, that failure to file an answer could lead to default, and that the proceedings would be governed by U.S. Department of Justice regulations.¹ The NOCA was delivered on March 31, 2026, making Respondent's answer due no later than May 6, 2026.² Respondent did not file its answer.

On June 10, 2026, the undersigned issued its Order to Show Cause. The order advised that Respondent's failure to file an answer within the 30-day timeframe required by 28 C.F.R. § 68.9(c) may be deemed to constitute a waiver of its right to appear and contest the allegations of the complaint, and that the Court may thereafter enter default judgment. United States v. Finest Vapor Garnerville, Inc., 22 OCAHO no. 1714, 2 (2026) (*citing* 28 C.F.R. § 68.9(c)). The Court further

¹ OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2023).

² Per 28 C.F.R. § 68.8[(c)(3)], five days are added to the date of compliance with a document transmitted by mail. Per 28 C.F.R. § 68.8(a), the date of the triggering event (in this case, the receipt of the order) is not counted in determining the date of compliance.

advised that should Respondent fail to respond to the order, or otherwise fail to offer a justification for their delay in filing an answer, the Court may grant a judgment by default. United States v. Finest Vapor Garnerville, Inc., 22 OCAHO no. 1714, 2 (2026) (*citing* United States v. Hotel Valet, Inc., 6 OCAHO no. 849, 252, 254 (1996)). The order directed that Respondent must file its answer and response to the Order to Show Cause by no later than July 2, 2026. *Id.* To date, Respondent has neither filed its answer nor responded to the Order to Show Cause.

II. ORDER OF DEFAULT

As this court has previously stated, the purpose of default judgment is to protect a diligent party from interminable delay. United States v. Continental Forestry Serv. Inc., 6 OCAHO no. 836 (1996). The answer is a vehicle for the respondent to contest the allegations in the complaint—should the respondent fail to file an answer, or otherwise fail to explain why they cannot respond, the court must presume that the respondent does not object to those allegations and conclude that they are true. United States v. ABS Staffing, 21 OCAHO no. 1632c, 2 (2026).

Respondent's failure to provide any answer or explanation must therefore result in an order of default judgment. Respondent is, as of the date of this order, 89 days tardy in the filing of its answer, and 32 days overdue on its response to the order to show cause. Respondent offers no good cause for the delay, and the Court's review of the record independent of Respondent reveals none. Consequently, the Court ORDERS that Respondent is in default. The factual assertions in the Complaint are deemed ADMITTED with regard to the three persons identified in Count I of the Complaint.

III. ORDER BIFURCATING PROCEEDINGS

The Complaint asserts that the Respondent failed to prepare or present Forms I-9 for the three persons, in violation of 8 U.S.C. § 1324a(a)(1)(B). Complaint 9. The Government asserts that it charged a civil monetary penalty of \$2,432.00 for each person, or \$7,296.00 in total. *Id.* It assesses these fines based on its own fine schema, however, the Complainant's penalty calculations are not binding on OCAHO; the court may examine the penalties de novo as appropriate. United States v. Ice Castles Daycare Too., 10 OCAHO No. 1142, 6 (2011).

In that the Complainant has not moved to dismiss the request for a hearing due to Respondent's failure to participate in the litigation, the Court will evaluate the penalty amount through the lens of its statutory and regulatory mandate.

The regulatory framework for OCAHO's assessment of penalties for § 1324a cases is set forth in 8 C.F.R. § 274a.2(a)(3) and 28 C.F.R. § 85.5. In assessing a civil penalty, the court is obliged to set a meaningful penalty without being unduly punitive. United States v. 3679 Commerce Place, 12 OCAHO No. 1296, 7 (2017). The court must, in setting the fine amount, consider the statutory factors as described in 8 U.S.C. § 1324a(e)(5). The court may also consider non-statutory factors in assessing the penalty, such as the Respondent's ability to pay the fine. United States v. Cityproof Corp., 15 OCAHO No. 1392a, 2 (2022).

As this Court has previously discussed, a bifurcation of the proceedings and an opportunity for the parties to present evidence on the statutory and non-statutory factors best meets the due process needs of the parties and the Court's understanding of its remit. United States v. ABS Staffing, 21 OCAHO no. 1632c, 4 (2026). The Court reminds Respondent that should it fail to provide any argument or evidence in support of its claims on the appropriate penalty assessment by the date indicated, it will have forfeited its opportunity to do so.

IV. ORDER

The Court ORDERS that Respondent is in DEFAULT with regard to the factual assertions in the Complaint, liability having been established through the Complaint and by Respondent's failure to file an answer.

The Court further ORDERS that these proceedings will be bifurcated into liability and damages phases.

The parties may, within 14 days of this order, file any submissions addressing damages as they deem appropriate.

SO ORDERED.

Dated and entered on August 3, 2026.

Honorable John A Henderson
Administrative Law Judge