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

May 1, 2020

UNITED STATES OF AMERICA, Complainant,	)	
	)	8 U.S.C. § 1324a Proceeding
v.	)	OCAHO Case No. 19A00026
	)	
ERIKSMOEN COTTAGES, LTD., Respondent.	)	

ORDER ON MOTION FOR SUMMARY DECISION

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended by the Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C. § 1324a. Pending is Complainant's Motion for Summary Decision. Respondent filed a response.

I. BACKGROUND

Respondent, Eriksmoen Cottages, Ltd., is a corporation registered in the State of Minnesota. Mot. Summ. Dec. Ex. G-4 at 1. On July 16, 2018, Complainant, the Department of Homeland Security, Immigration and Customs Enforcement (ICE), served Respondent with a Notice of Inspection (NOI) and informed Respondent that it would conduct the inspection on July 19, 2018. Mot. Summ. Dec. Ex. G-2 at 2. On July 19, 2018, Respondent delivered to Complainant some original Forms I-9, an employee list for current and terminated employees, an IRS Form 941 for the first and second quarter of 2018, owner information, and Articles of Incorporation as requested by the administrative subpoena. Mot. Summ. Dec. Exs. G-3, G-4, G-5, G-9, G-10.

On July 30, 2018, Complainant requested additional documentation from Respondent via email. Mot. Summ. Dec. Exs. G-6, G-9, G-10. On the same day, Respondent told Complainant that it had not provided the Forms I-9 for Respondent's office staff. Mot. Summ. Dec. Exs. G-5, G-6. Respondent's Office Manager, Vicky Matson, informed Complainant that she "will get the owners/office staff I9 info to you as soon as possible." *Id*. Matson admitted that "[t]his [was] totally missed by [her], for some reason [she] was just thinking about [their] house[']s staff." *Id*. On the same day, Respondent emailed payroll information for January 2018 to July 2018 to Complainant. Mot. Summ. Dec. Ex. G-7. The next day, on August 1, 2018, Respondent

delivered to Complainant the six additional Forms I-9 for the office staff. Mot. Summ. Dec. Ex. G-10.

On August 7, 2018, Complainant mailed to Respondent a letter requesting eight additional Forms I-9 that were believed to be within the scope of the investigation. Mot. Summ. Dec. Exs. G-7, G-10. On August 31, 2018, Respondent delivered to Complainant three additional Forms I-9, for the Chief Financial Officer and two other individuals. Mot. Summ. Dec. Ex. G-10.

On September 6, 2018, Complainant mailed to Respondent a letter entitled "Notice of Suspect Documents" informing Respondent that two of Respondent's employees appeared to be without authorization to work in the United States. Mot. Summ. Dec. Ex. G-11 at 1. On September 11, 2018, Respondent sent additional information regarding one of the employees referenced in the Notice of Suspect Documents, and Complainant determined that this individual was authorized to work in the United States. Mot. Summ. Dec. Ex. G-10 at 3. On September 28, 2018, Respondent informed Complainant that the remaining individual on the Notice of Suspect Documents no longer worked for them. *Id*.

On October 2, 2018, Complainant sent a Notice of Technical or Procedural Failures, including copies of the Forms I-9 that required correction, to Respondent's Office Manager, Vicky Matson. Mot. Summ. Dec. Ex. G-12. On October 17, 2018, Respondent timely delivered the corrected Forms I-9 to Complainant. Mot. Summ. Dec. Ex. G-10 at 4.

On January 16, 2019, Complainant served a Notice of Intent to Fine (NIF) on Respondent alleging thirty violations of INA § 274(a)(1)(B) and seeking a total of $36,900 in civil money penalties. Mot. Summ. Dec. Ex. G-13. Respondent timely filed a request for a hearing on January 31, 2019. Mot. Summ. Dec. Ex. G-14 at 5. Complainant served a revised NIF, on March 27, 2019, to correct language from the initial NIF. Mot. Summ. Dec. Ex. G-10. Respondent timely filed a request for a hearing on March 28, 2019. Mot. Summ. Dec. Ex. G-1.

On May 20, 2019, Complainant filed with the Office of the Chief Administrative Hearing Officer (OCAHO) a complaint alleging thirty violations of INA § 274A(a)(1)(B) and seeking a total of $36,900 in civil money penalties. Mot. Summ. Dec. Ex. G-1. On July 12, 2019, Respondent filed an answer. On January 10, 2020, Complainant filed a motion for summary decision, and on February 11, 2020, Respondent filed a memorandum in opposition and a response to Complainant's motion.

II. STANDARDS

A. Summary Decision

Under the OCAHO rules, the Administrative Law Judge (ALJ) "shall enter a summary decision for either party if the pleadings, affidavits, material obtained . . . show that there is no genuine issue as to any material fact and that a party is entitled to summary decision." 28 C.F.R. § 68.38(c).[1] "An issue of fact is genuine only if it has a real basis in the record" and a "genuine

[1] *See* Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2016).

issue of fact is material if, under the governing law, it might affect the outcome of the suit." *Sepahpour v. Unisys, Inc.*, 3 OCAHO no. 500, 1012, 1014 (1993) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–87 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).[2]

"In cases arising under 8 U.S.C. § 1324a, the government has the burden of proving by a preponderance of the evidence that the respondent is liable for committing a violation of the employment eligibility verification requirements." *United States v. Metro. Enters., Inc.*, 12 OCAHO no. 1297, 7 (2017). The government also has the burden of proof with respect to the penalty and the government "must prove the existence of any aggravating factor by the preponderance of the evidence[.]" *Id*. (quoting *United States v. Niche, Inc.*, 11 OCAHO no. 1250, 6 (2015)) (internal citations omitted).

"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)). "[T]he party opposing the motion for summary decision 'may not rest upon the mere allegations or denials' of its pleadings, but must 'set forth specific facts showing that there is a genuine issue of fact for the hearing.'" *United States v. 3679 Commerce Place, Inc.*, 12 OCAHO no. 1296, 4 (2017) (quoting 28 C.F.R. § 68.38(b)). Further, if the government satisfies its burden of proof, "the burden of production shifts to the respondent to introduce evidence . . . to controvert the government's evidence. If the respondent fails to introduce any such evidence, the unrebutted evidence introduced by the government may be sufficient to satisfy its burden[.]" *United States v. Durable, Inc.*, 11 OCAHO no. 1231, 5 (2014). All facts and reasonable inferences are viewed "in the light most favorable to the non-moving party." *United States v. Prima Enters., Inc.*, 4 OCAHO no. 615, 259, 261 (1994) (citations omitted).

B. Employment Verification Requirements

"Employers must prepare and retain Forms I-9 for employees hired after November 6, 1986," and employers must produce the I-9s for government inspection upon three days' notice. *Metro. Enters.*, 12 OCAHO no. 1297 at 7 (citing 8 C.F.R. § 274a.2(b)(2)(ii)). An employer must ensure that an employee completes section 1 of the I-9 on the date of hire and the employer must complete section 2 of the I-9 within three days of hire. *United States v. A&J Kyoto Japanese Rest.*, 10 OCAHO no. 1186, 5 (2013); 8 C.F.R. § 274a.2(b)(1)(A), (ii)(B). Employers must

[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 subsequent to Volume 8, where the decision has not yet 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," or in the LexisNexis database "OCAHO," or on the website at http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders.

retain an employee's I-9 for three years after the date of hire or one year after the date of termination, whichever is later. § 274a.2(b)(2)(i)(A).

"Failures to satisfy the requirements of the employment verification system are known as 'paperwork violations,' which are either 'substantive' or 'technical or procedural.'" *Metro. Enters., Inc.*, 12 OCAHO no. 1297 at 7 (citing Memorandum from Paul W. Virtue, INS Acting Exec. Comm'r of Programs, *Interim Guidelines: Section 274A(b)(6) of the Immigration & Nationality Act Added by Section 411 of the Illegal Immigration Reform & Immigrant Responsibility Act of 1996* (Mar. 6, 1997) (Virtue Memorandum or the Guidelines)). As explained in *United States v. WSC Plumbing, Inc.*, 9 OCAHO no. 1071, 11 (2001), dissemination of the Interim Guidelines to the public may be viewed as an invitation for the public to rely upon them as representing agency policy. While this office is not bound by the Virtue Memorandum, the complainant is so bound, and failure to follow its own guidance is grounds for dismissal of those claims. *Id*. at 12.

Relevant to the instant case, the Virtue Memorandum characterizes the following violations as substantive: (1) failure to prepare or present a Form I-9; (2) lack of employee signature in section 1; (3) employee attestation not completed on the date of hire; (4) no check mark indicating the employee's work authorization status; (5) no Alien number (A number), when the A number is not on sections 2 or 3, or on any of the documents retained; (6) no employer signature in section 2; (7) employer attestation is not within three days of hire; and (8) section 3 is blank even though the employee's work authorization expired. Virtue Memorandum at 2–4.

C. Penalties

Civil penalties for paperwork violations are assessed in accordance with the parameters set forth in 8 C.F.R. § 274a.10(b)(2) and 28 C.F.R. § 85.5. For civil penalties assessed after January 29, 2018, the minimum penalty for each violation that occurred after November 2, 2015, is $224, and the maximum penalty is $2,236. § 85.5. Complainant has the burden of proof with respect to penalties and "must prove the existence of an aggravating factor by a preponderance of the evidence." *3679 Commerce Place*, 12 OCAHO no. 1296 at 4 (citing *United States v. March Constr., Inc.*, 10 OCAHO no. 1158, 4 (2012); *United States v. Carter*, 7 OCAHO no. 931, 121, 159 (1997)). Complainant's "penalty calculations are not binding in OCAHO proceedings, and the ALJ may examine the penalties de novo if appropriate." *United States v. Alpine Staffing, Inc.*, 12 OCAHO no. 1303, 10 (2017).

To determine the appropriate penalty amount, "the following statutory factors must be considered: (1) the size of the employer's business, (2) the employer's good faith, (3) the seriousness of the violations, (4) whether or not [an] individual [at issue] was an unauthorized alien, and (5) the employer's history of previous violations." *Id*. at 9 (citing 8 U.S.C. § 1324a(e)(5)). This administrative tribunal considers the facts and circumstances of each case to determine the weight, if any, given to each factor. *Metro. Enters.*, 12 OCAHO no. 1297 at 8. While the statutory factors must be considered in every case, § 1324a(e)(5) "does not mandate any particular outcome of such consideration, and nothing in the statute or the regulations requires . . . that the same weight be given to each of the factors in every case . . . or that the weight given to any one factor is limited to any particular percentage of the total." *United States*

v. Ice Castles Daycare Too, Inc., 10 OCAHO no. 1142, 6–7 (2011) (internal citations omitted). Further, this administrative tribunal may also consider other, non-statutory factors, such as inability to pay and the public policy of leniency toward small businesses, as appropriate in the specific case. *3679 Commerce Place*, 12 OCAHO no. 1296 at 4 (citation omitted). A party seeking consideration of a non-statutory factor, such as the ability to pay the penalty, bears the burden of proof in showing that the factor should be considered as a matter of equity, and that the facts support a favorable exercise of discretion. *Id.* at 7.

III. DISCUSSION

A. Liability

1. Count I

Complainant contends that Respondent failed to prepare or present Forms I-9 for six employees listed in Count I of the Complaint. "Employers must prepare and retain Forms I-9 for employees hired after November 6, 1986," and employers must produce the I-9s for government inspection upon three days' notice. *Metro. Enters.*, 12 OCAHO no. 1297 at 7 (citing 8 C.F.R. § 274a.2(b)(2)(ii)). "Any refusal or delay in presentation of the Forms I-9 for inspection is a violation of the retention requirements as set forth in section 274A(b)(3) of the Act." 8 C.F.R. § 274a.2(b)(2)(ii).

The Court finds that Respondent is summarily liable for six Forms I-9 that it failed to deliver to Complainant within three days of receiving the NOI. Complainant served a NOI on Respondent, on July 16, 2018, which directed Respondent to deliver Forms I-9 "for all current and for former employees terminated on or after January 1, 2018" by July 19, 2018. Mot. Summ. Dec. Ex. G-2 at 1. There is no dispute that Respondent failed to deliver six Forms I-9 for the members of their office staff to Complainant by July 19, 2018.

Respondent argues that summary decision should not be granted on Count I for several reasons. First, Respondent asserts that there is a material factual dispute regarding whether the request from the NOI included management (office staff) and owners, or Respondent's office manager, Vicky Matson, "simply missed these Forms in the first batch of documents she delivered." Mot. Summ. Dec. Ex. G-6 at 1. The Court finds that the NOI requested Forms I-9 from the office staff.[3] The NOI clearly states that it "includes the original Forms I-9 for all current employees and for former employees terminated on or after January 1, 2018." Mot. Summ. Dec. Ex. G-2 at 2. The term "employee" means a person who provides services or labor for an employer for wages or other remuneration. 8 C.F.R. § 274a.1(f). The six individuals from the office staff were listed on Respondent's payroll and its employee list. Mot. Summ. Dec. Exs. G-5, G-7. There is no language in the NOI which suggests that the office staff employees were not to be included in the request. *See* Mot. Summ. Dec. Ex. G-2.

[3] Complainant does not allege any violations under INA § 274A regarding the Forms I-9 for the owners. The only alleged violations under Count I regard the omission of Forms I-9 for the office staff, who are unequivocally employees of Respondent's business.

Respondent asserts that it did not receive the Handbook for Employers from Complainant and there is a material factual dispute as to whether the Handbook was delivered.[4] Respondent seems to argue that, based on the Auditor's instructions when he served the NOI and the absence of the Handbook, Respondent did not know that it was required to produce I-9s for its office staff. Joint Decl. Markfort & Matson at 2. Since the NOI unambiguously requested Forms I-9 for the all employees, including office staff, the Court finds that this does not establish a material factual issue as to whether the NOI request included office staff.

Third, Respondent argues that "[t]imeliness violations such as those alleged in Count I may constitute 'technical or procedural' verification failures . . . ." Resp. to Mot. at 5. Respondent asserts that the "Guidelines indicate that an employer who commits a good faith timeliness violation can seek shelter under INA § 274A(b)(6) if 'the date that the particular section should have been completed falls on or after September 30, 1996,' . . . ." Resp. to Mot. at 5 (citing Virtue Memorandum at 7). Respondent explains that its failure to timely present the Forms I-9 to ICE was a mistake made in good faith. Respondent contends that it corrected this mistake when its office manager, Vicky Matson, notified ICE, on July 30, 2018, that she had "totally missed" the I-9's for the office staff and owners and, two days later, submitted the missing I-9's to ICE. Therefore, Respondent contends that its good faith efforts absolve it of liability related to Count I.

The good faith exception in section 274A(b)(6) only applies to technical or procedural violations. § 274A(b)(6). This is reinforced in the section of the Guidelines to which Respondent refers. *See* Virtue Memorandum at 7. The Guidelines do not specify the untimely presentation of Forms I-9 to ICE as a "technical or procedural" verification failure. *See id.* at 4–5. Instead, the failure to present an I-9 is a substantive verification failure. *Id.* at 2.

Moreover, the "timeliness failures" that are referenced in the Guidelines only apply to the timeliness of completing Sections 1 or 2 of the Form I-9. A Form I-9 is timely completed when the employee completes section 1 of the I-9 form at the time of hire, and the employer completes the section 2 attestation within three business days of hire. 8 C.F.R. § 274a.2(b)(1)(ii). The failure to timely present an I-9 is a different matter from the failure to timely complete section 1 and/or section 2 of an I–9. *See Horno*, 11 OCAHO no. 1247 at 7 (finding violations for failure to timely present I-9s); *United States v. Hair U Wear, LLC*, 11 OCAHO no. 1268, 12 (2016) (finding violations for failure to timely prepare I-9s). Therefore, the portion of the Guidelines to which Respondent refers is inapplicable to the untimely submission of Forms I-9 to ICE.

Furthermore, the regulations and OCAHO case law make it clear that the failure to timely submit Forms I-9 to ICE, upon request, is not entitled to correction through the good faith exception. The regulations state that "[a]ny refusal or delay in presentation of the Forms I-9 for inspection is a violation of the retention requirements as set forth in section 274A(b)(3) of the Act." 8 C.F.R. § 274a.2(b)(2)(ii). According to OCAHO case law, the employer cannot avoid liability by submitting I-9 forms at some later point in the process, *absent an extension of time*. *See e.g. United States v. Golden Employment Group, Inc.*, 12 OCAHO no. 1274, 5 (2016); *United States*

[4] In any event, the Handbook is available and easily accessible on the internet at the USCIS.com website.

v. Horno MSJ, Ltd., 11 OCAHO no. 1247, 7 (2015); *United States v. A&J Kyoto Japanese Rest. Inc.*, 10 OCAHO no. 1186, 7 (2013) (noting that late-produced I-9's did not absolve employer of liability for failure to present them initially); *United States v. Fowler Equip. Co.*, 10 OCAHO no. 1169, 5 (2013) (observing that the violations occurred at the time of the inspection).

Respondent does not argue, and the facts do not show, that Respondent was granted an extension of time to submit the missing Forms I-9. On July 30, 2018, eleven days after the inspection date, Respondent's office manager emailed ICE Agent Scott Sutehall and informed him that she "did not include any office staff/owners in the info [she] sent . . ." and that she "will get that to [Agent Sutehall] as soon as possible." Mot. Summ. Dec. Ex. G-6 at 1. There is no evidence in the record that ICE Agent Sutehall had granted Respondent an extension of time to submit these missing Forms I-9. Since Respondent did not present the six Forms I-9 listed in Count I at the time of inspection and Respondent was not given an extension of time to submit the missing Forms I-9, Respondent is summarily liable for failing to prepare or present Forms I-9 for six employees listed in Count I of the Complaint.

2. Count II

ICE contends that Respondent failed to ensure that the employees properly completed section 1 and/or that Respondent failed to properly complete sections 2 or 3 for twenty-four employees listed in Count II.

ICE's brief spells out with specificity the particular paperwork violations it contends appear on the Forms I-9 for each of the twenty-four employees listed in Count II, and says that visual examination substantiates its assertions with respect to these violations. Mot. Summ. Dec. at 8-16. According to ICE, "[t]he bulk of the violations for Eriksmoen show that the Respondent failed, on a regular basis, to reverify employment authorization for many of its employees as it was required to, in addition to other substantive violations." *Id*. at 8. ICE contends that each of the twenty-four violations is a substantive violation. *Id*. The Declaration of ICE Auditor Melissa Bodsgard accompanied ICE's brief, and pointed to the specific exhibits the government filed in support of each count in the complaint. *See* Mot. Summ. Dec. Ex. G-10.

Visual inspection of the forms for the individuals named in Count II confirms the existence of the specific errors and omissions ICE identified. *See* Mot. Summ. Dec. Ex. G-18. Each of the twenty-four I-9s listed in Count II contains a substantive verification failure. For many of the Forms I-9 listed in Count II, the employees' employment authorization expired and Respondent failed to reverify the employment authorization in section 3. *Id*. If an individual's employment authorization expires, the employer must reverify on Section 3 of the Form I-9 that the individual is still authorized to work in the United States. 8 C.F.R. § 274a.2(b)(vii). This must occur no later than the date that the individual's employment authorization expires. *Id*. The failure to reverify employment eligibility is a substantive verification failure. *See* Virtue Memorandum at 4; *United States v. Hartmann Studios, Inc.*, 11 OCAHO no. 1255, 10 (2015).

Also, in many of these Forms I-9, the employee failed to check a box in section 1 attesting to the employee's employment authorization status. *See* Mot. Summ. Dec. Ex. G-18. Employers must ensure that employees check a box in section 1 attesting to their employment authorization

status. *Hartmann*, 11 OCAHO no. 1255 at 9. This is also a substantive verification failure. *See* Virtue Memorandum at 4.

Respondent maintains that, in the forms in which the employees failed to list a "document identification number," legible copies of documents were attached to the I-9 forms that contained the missing information. Mem. in Opp'n to Mot. at 5. The Court finds that Respondent has not raised a triable issue of fact with regard to this matter. The Complainant presented Exhibit G-18 which shows that, for the forms that lacked the employees' Alien Registration Numbers (A-number) in section 1, there was no legible copy of a document listing the A-number attached to the forms I-9.[5] *See* Mot. Summ. Dec. Ex. G-18. Respondent has failed to present any evidence to show that a legible copy of such documents was attached to the Forms I-9. A mere assertion that legible copies of such documents were attached to the forms upon submission to ICE is insufficient to raise a triable issue of material fact. *See 3679 Commerce Place, Inc.*, 12 OCAHO no. 1296 at 4.

Based on the Court's visual inspection of the twenty-four I-9s in Count II, Respondent is liable for the following substantive paperwork violations: (1) two violations for failure to ensure that the employee check the box attesting to his or her citizenship or immigration status; (2) seven violations for failure to review, verify, and identify a proper List A, B, and/or C document in section 2; (3) nine violations for failure to reverify employment authorization status after the employee's employment authorization expired; and (4) six violations for lack of an A number in section one and the A number is not in the documents attached. [6] Mot. Summ. Dec. Ex. G-18; *see Virtue Memorandum* at 3–4; *Metro. Enterps.*, 12 OCAHO no. 1297 at 13.

The Court holds that Complainant's motion is GRANTED IN PART and Respondent is summarily liable for six violations in Count I and twenty-four violations in Count II, or a total of thirty violations under § 1324a.

B. Penalties

In light of the recent circumstances regarding the Coronavirus pandemic, the Court has decided to bifurcate the issues of liability and penalty assessment. The decision to bifurcate proceedings is in the Court's discretion. *Hernandez v. Farley Candy Co.*, 5 OCAHO no. 781, 464, 465 (1995). The parties filed the motion at issue and response prior to the current national emergency.

[5] The Court notes that, for the employee C. Msiska, ICE alleged that he failed to list his A-number or provide a legible copy of a document showing his A-number. This Form I-9 did have a legible copy of an employment authorization card listing his A-number attached to the form. *See* Mot. Summ. Dec. Ex. G-18 at 59. However, the evidence shows that Respondent failed to timely reverify this employee's work authorization. *Id*. Therefore, this form still contains a substantive verification failure.

[6] Many of the I-9 forms contain multiple substantive paperwork violations, including those listed in this section and others, such as the employer's failure to ensure that the employee signed the section 1 attestation and the employer's failure to complete section 2 within three days of hire.

Due to the recent events since the parties filed the motion and responses, Respondent may submit a supplemental briefing addressing the penalty determination. If Respondent files a supplemental brief, the government may file a response. The Court will assess the penalties in a subsequent Order.

Respondent may submit the supplemental brief no later than May 20, 2020. The government may submit a response no later than June 3, 2020.

IV. CONCLUSION

The undersigned GRANTS IN PART Complainant's motion for summary decision and finds that Respondent is liable for thirty total violations of § 1324a. The Court has bifurcated the issues of liability and penalty assessment. The parties may submit supplemental filings to address the penalties. Respondent may file supplemental briefing on penalties no later than May 20, 2020, and the government may file a response no later than June 3, 2020.

SO ORDERED.

Dated and entered on May 1, 2020.

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Jean King
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.