

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

July 30, 2020

UNITED STATES OF AMERICA,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324c Proceeding
	)	OCAHO Case No. 2020C00069
	)	
DANIELLE MESSINEO,	)	
Respondent.	)	
_____	)	

ORDER OF DEFAULT JUDGMENT

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324c. The U.S. Department of Homeland Security, Immigration and Customs Enforcement (Complainant or ICE) filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on April 29, 2020. ICE alleged that Respondent, Danielle Messineo, committed two violations of § 1324c when she forged, counterfeited, altered, or falsely made a Form I-9, and used or provided a Social Security Card and a Driver’s License lawfully issued to a person other than Respondent.

I. DISCUSSION

A. Default Judgment

On April 30, 2020, this office sent Respondent a Notice of Case Assignment for Complaint Alleging Document Fraud, a copy of the complaint, the Notice of Intent to Fine, and Respondent’s request for a hearing, via certified U.S. mail. The Notice of Case Assignment directed that an answer was to be filed within thirty (30) days of receipt of the complaint, that failure to answer could lead to default, and that proceedings would be governed by Department of Justice regulations. The U.S. Postal Service website indicates that service was completed on Respondent on May 6, 2020. 28 C.F.R. § 68.3(a). Thus, Respondent’s answer was due no later than June 8, 2020. Respondent has not filed an answer.

On June 19, 2020, the undersigned issued a Notice of Entry of Default requiring Respondent, within twenty days of the order, to file an answer and show good cause for her failure to file a

timely answer. The undersigned warned that failure to file an answer and show good cause may result in the entry of a default judgement against Respondent. Respondent's response to the Notice of Entry of Default was due no later than July 9, 2020. Respondent did not file a response or an answer.

As such, the undersigned finds Respondent in default. 28 C.F.R. § 68.9(b). Respondent is liable for one count of violation of § 1324c(a)(1) for knowingly forging, counterfeiting, altering, or falsely making a document for the purpose of satisfying a requirement of the INA. Respondent is also liable for one count of § 1324c(a)(3) for knowingly using or attempting to use or providing or attempting to provide any document lawfully issued to a person other than the possessor for the purpose of satisfying a requirement of the INA.

## B. Penalties

Complainant seeks \$13,976.00 in penalties for the two counts, assessing \$3,788 for each of the three violations. It is unclear how Complainant arrived at this figure, but in any event Complainant levied the maximum fine permitted by the regulations as applied to the Department of Homeland Security. *See "Civil Monetary Penalty Adjustments for Inflation,"* 84 Fed. Reg. 13499 (April 5, 2019). These regulations do not apply to the Department of Justice, however. The applicable penalty range in these proceedings depends on the date of the violations and the date of assessment. *See* 28 C.F.R. § 85.5. For violations that occur after November 2, 2015, the adjusted penalty range as set forth in § 85.5 applies. *See* § 85.5. If the penalty is assessed between January 29, 2018, and June 16, 2020, the minimum penalty is \$461 and the maximum is \$3,695. *Id.* The Notice of Intent to Fine was served on Respondent on January 23, 2020. Because the penalty assessed by Complainant is more than the statutory maximum permitted by the Department of Justice regulations, the penalty is adjusted to the maximum permitted by Department of Justice regulations. Applying the maximum fine, this Court finds that Respondent is liable for \$3,695 per violation, for a total of \$11,085 in civil penalties for violations of § 1324c(a)(1) and § 1324c(a)(3).

## II. CONCLUSION

For the foregoing reasons, the undersigned finds and concludes:

1. Default judgment is GRANTED and the case is DISMISSED.
2. Respondent is liable for one count of violating § 1324c(a)(1) for knowingly forging, counterfeiting, altering, or falsely making a document for the purpose of satisfying a requirement of the INA.

3. Respondent is liable for one count of § 1324c(a)(3) for knowingly using or attempting to use or providing or attempting to provide two documents lawfully issued to a person other than the possessor for the purpose of satisfying a requirement of the INA.
4. Respondent shall pay \$11,085.00 in civil penalties.
5. Respondent shall cease and desist from violating 8 U.S.C. § 1324c.

SO ORDERED.

Dated and entered on July 30, 2020.

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Jean C. 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. § 1324c(d)(4) 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) (2012).

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. § 1324c(d)(4) 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. § 1324c(d)(5) and 28 C.F.R. § 68.56.