

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

December 14, 2021

|                           |   |                             |
|---------------------------|---|-----------------------------|
| UNITED STATES OF AMERICA, | ) |                             |
| Complainant,              | ) |                             |
|                           | ) | 8 U.S.C. § 1324a Proceeding |
| v.                        | ) | OCAHO Case No. 2021A00059   |
|                           | ) |                             |
| LOUIE’S WINE DIVE, LLC,   | ) |                             |
| Respondent.               | ) |                             |
| _____                     | ) |                             |

Appearances: Joshua P. Sleper, Esq., for Complainant  
Corey Gonzalez, pro se, for Respondent

FINAL DECISION AND ORDER OF DISMISSAL

This case arises under 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), filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on September 22, 2021. Complainant alleged Respondent, Louie’s Wine Dive, LLC, failed to comply with the employment eligibility verification provisions of 8 U.S.C. § 1324a(a)(1)(B).

ICE specifically alleged that Respondent failed “to ensure that named individuals properly completed Section 1 of the Form I-9, and/or [failed] to properly complete Section 2 or Section 3 of the Form I-9” for the twenty-five individuals named in the Notice of Intent to Fine (NIF). Compl. 2-3, Ex. A. Complainant requested that the Court order Respondent to pay \$48,877.50 in proposed penalties as set forth in the NIF, “cease and desist” from the alleged NIF violations, and comply with 8 U.S.C. § 1324a(b) requirements for a period of three years. *See id.*

This office sent a Notice of Case Assignment Regarding Unlawful Employment (NOCA), a copy of the complaint, the NIF, and Respondent’s request for a hearing to Respondent on September 27, 2021. The NOCA 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.<sup>1</sup> The U.S. Postal Service website indicates that service was

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<sup>1</sup> Rules of Practice and Procedure, 28 C.F.R. pt. 68.

completed on October 2, 2021, making Respondent's answer due no later than November 1, 2021. Respondent has not filed an answer.

On November 18, 2021, the undersigned issued a Notice and Order to Show Cause requiring Respondent to show cause, within fifteen (15) days, on why its request for a hearing should not be deemed abandoned, or to file its answer in accordance with 28 C.F.R. § 68.9. The fifteen (15) day period to file a response expired on December 3, 2021. Respondent did not file a response.

OCAHO rules provide that a request for a hearing may be dismissed upon its abandonment by the party who filed it, and that a party shall be deemed to have abandoned such a request where the party or its representative fails to respond to orders issued by the Administrative Law Judge. 28 C.F.R. § 68.37(b)(1); *see, e.g., United States v. Hosung Cleaning Corp.*, 4 OCAHO no. 681, 776, 777–78 (1994).

Respondent did not file an answer or respond to the subsequent Order to Show Cause. The Court finds that Respondent has abandoned its request for a hearing. The complaint is accordingly DISMISSED. The Notice of Intent to Fine (NIF) becomes the final agency order in this matter.

SO ORDERED.

Dated December 14, 2021.

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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. § 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.