

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. 2021A00027
MRD LANDSCAPING & MAINTENANCE,)	
CORP.,)	
)	
Respondent.)	
_____)	

Appearances: Martin Celis, Esq., for Complainant¹
Cynthia Canales, Esq., for Respondent

ORDER OF DISMISSAL

This case arises under the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324a. Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement, filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 8, 2021, alleging that Respondent, MRD Landscaping & Maintenance, Corp., violated the employer sanctions provisions of 8 U.S.C. § 1324a. Complainant amended the complaint on December 17, 2021, and Respondent filed an answer to the amended complaint on March 28, 2022.

On July 14, 2022, the Court set an initial prehearing conference in this matter and asked the parties to confer before the conference regarding their interest in participating in the OCAHO Settlement Officer Program. The Court provided the

¹ The Court is serving the United States Department of Homeland Security via counsel of record, Mr. Celis, but it appears that Assistant Chief Counsel Hazel L. Gauthier now represents Complainant in this matter. See Joint Notice of Settlement and Request for Dismissal 2. Although she has not formally moved for substitution as counsel, the Court is mailing a courtesy copy of this Order to Ms. Gauthier. Given the posture of the case, the Court waives the filing of written motions for withdrawal or substitution of counsel pursuant to 28 C.F.R. § 68.33(g).

parties with a link to the Executive Office for Immigration Review's Policy Memorandum 20-16 which describes the policies and procedures for the use of settlement officers in OCAHO cases.

On August 17, 2022, the Court conducted an initial telephonic prehearing conference in the above-captioned matter pursuant to 28 C.F.R. § 68.13. During this conference, Respondent's counsel indicated that Respondent was interested in participating in the OCAHO Settlement Officer Program. *See* Order Memorializing Initial Prehearing Conference and Setting Case Schedule 1. The parties represented that they had engaged in settlement discussions, but that a settlement had not materialized. *Id.* at 3. The Court provided the parties with an overview of the OCAHO Settlement Officer Program and Respondent's counsel indicated that her client would benefit from the presence of a neutral third-party mediator to facilitate a resolution of this matter. *Id.* The Court concluded that this case was appropriate for a referral and the parties agreed to a referral period of thirty days. *Id.* The parties confirmed their consent in writing after the prehearing conference. *See* Order Referring Case to OCAHO Settlement Officer Program and Designating Settlement Officer (SOP Order) 2.

Accordingly, on August 23, 2022, the Court referred this case to the OCAHO Settlement Officer Program for mediated settlement negotiations through September 21, 2022. SOP Order 3. In doing so, the Court found that the case met the eligibility requirements for the program set forth in Section I.C.1-2 of Policy Memorandum 20-16 and Chapter 4.7(a)(3)(A)-(B) of the OCAHO Practice Manual, and considered the factors enumerated in 5 U.S.C. § 572(b), Section I.C.3 of Policy Memorandum 20-16, and Chapter 4.7(a)(3)(C) of the OCAHO Practice Manual, finding that they did not counsel against referral of the case to the Settlement Officer Program. SOP Order 2-3.

On October 24, 2022, Complainant and Respondent filed a Joint Notice of Settlement and Request for Dismissal (NOS). In the joint filing, the parties move the Court to dismiss this case without prejudice as they have reached a "full and final settlement" in this matter. NOS 2.

Pursuant to 28 C.F.R. § 68.14(a)(2), where the parties have entered into a settlement agreement, they shall "[n]otify the Administrative Law Judge that the parties have reached a full settlement and have agreed to dismissal of the action. Dismissal of the action shall be subject to the approval of the Administrative Law Judge, who may require the filing of the settlement agreement." After reviewing the parties' joint filing, the Court finds that the parties have substantially complied with

28 C.F.R. § 68.14(a)(2) and dismissal of this case is appropriate. The Court will not require the parties to file the settlement agreement in this matter.

Accordingly, upon consideration of the parties' Joint Notice of Settlement and Request for Dismissal, and pursuant to 28 C.F.R. § 68.14(a)(2),

IT IS SO ORDERED that the parties' Joint Request for Dismissal is GRANTED and this case is DISMISSED without prejudice.

SO ORDERED.

Dated and entered on January 31, 2023.

Honorable Carol A. Bell
Administrative Law Judge