

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

March 1, 2023

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2022A00049
)	
STEIDLE LAWN & LANDSCAPE, LLC,)	
Respondent.)	
_____)	

Appearances: Matthew Brunkhorst, Esq., for Complainant
Eric J. Wulff, Esq., for Respondent

ORDER OF DISMISSAL

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. Complainant, the U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE) filed a complaint with the Office of the Chief Administrative Hearing Officer (OCAHO) on June 8, 2022. Complainant alleges that Respondent, Steidle Lawn & Landscape, LLC, failed to present Forms I-9 for thirty-three individuals, in violation of 8 U.S.C. § 1324a(a)(1)(B). Compl. 3; *see also id.* at 8–11 (Notice of Intent to Fine (NIF)). Complainant requests that the Court order Respondent to pay \$64,284 in proposed penalties as set forth in the NIF, “cease and desist” from the alleged NIF violations, and comply with § 1324a(b) for a period of three years. *Id.* at 4, 11. Respondent requested a hearing before OCAHO on February 11, 2022. *See id.* at 13.

On October 19, 2022, the Court issued an Order Discharging Order to Show Cause and for Prehearing Statements, directing that Complainant’s prehearing statement was due on November 8, 2022, and Respondent’s prehearing statement was due on November 21, 2022. On November 8, 2022, the Court received Complainant’s prehearing statement. Respondent did not file its prehearing statement by November 21, 2022.

Therefore, on November 30, 2022, the Court issued an Order to Show Cause, directing Respondent to file a prehearing statement, as well as a response showing good cause for filing an untimely prehearing statement, by December 20, 2022. The Court warned Respondent that the Court may dismiss a request for hearing upon its abandonment by the party who filed it, including for failure

to respond to Court orders. OTSC 2 (citing, inter alia, 28 C.F.R. § 68.37(b)). Respondent did not file a prehearing statement or otherwise respond to the Order to Show Cause.¹

On January 24, 2023, the Court issued a Notice that Court May Dismiss Request for Hearing as Abandoned (Abandonment Notice). The Court notified the parties that given that Respondent did not file a prehearing statement in accordance with the Order Discharging Order to Show Cause and For Prehearing Statements and did not respond to the Order to Show Cause, the Court may dismiss Respondent's request for a hearing as abandoned. See Abandonment Notice 2 (citing 28 C.F.R. § 68.37(b)(1), and then citing *U.S. v. Greif*, 10 OCAHO no. 1183, 2, 7 (2013)). The Court provided Respondent with a final opportunity to address its prehearing statement and advise the Court whether it intends to pursue its request for a hearing by January 30, 2023. *Id.* at 2–3. Respondent did not respond to the Abandonment Notice.

“OCAHO Rules provide that a request for 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 [ALJ orders].” *United States v. Triple Crown Rest. Grp. LLC*, 16 OCAHO no. 1444b, 2 (2022) (internal quotations and citation omitted); accord *United States v. Patmo Concrete LLC*, 17 OCAHO no. 1448b, 2 (2022). See also *Caltzoncin v. GSM Insurors-Glass, Sorenson & McDavid*, 12 OCAHO no. 1287a, 3 (2016).

Because Respondent has not responded to either the Court's Order Discharging Order to Show Cause and For Prehearing Statements, Order to Show Cause, or Abandonment Notice, the Court finds that Respondent has abandoned its request for a hearing pursuant to 28 C.F.R. § 68.37(b)(1).

The complaint is hereby DISMISSED, and the NIF becomes the final agency order in this matter.

SO ORDERED.

Dated and entered on March 1, 2023.

Honorable Jean C. King
Chief Administrative Law Judge

¹ Respondent also did not timely file an answer in this matter as directed in the Notice of Case Assignment for Complaint Alleging Unlawful Employment (NOCA). Respondent filed its answer and proffered good cause for its failure to timely do so following the Court's August 25, 2022 Order to Show Cause and September 30, 2022 Order.

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) (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. § 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.