

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

UNITED STATES OF AMERICA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324a Proceeding
)	OCAHO Case No. 2020A00075
)	
BLISS HOSPITALITY LLC D/B/A)	
BAYMONT INN & SUITES,)	
Respondent.)	
)	

Appearances: Bruna Walls, Esq., for Complainant
Brijesh Patel, pro se, for Respondent¹

SUPPLEMENTAL BRIEFING ORDER

This case arises under the employer sanctions provisions of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324a. On June 18, 2020, Complainant, the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), filed a complaint against Respondent, Bliss Hospitality LLC d/b/a Baymont Inn & Suites, alleging violations of § 1324a(a)(1)(B). On August 5, 2020, Respondent filed an answer.

On January 7, 2021, Complainant filed a motion for summary decision. On February 10, 2021, Respondent filed a response to the motion for summary decision. The Court received supplemental briefing related to Respondent's finances on December 16, 2022. Complainant's Motion for Summary Decision is currently pending before the Court.

In United States v. Edgemont Grp., LLC, 17 OCAHO no. 1470b (2023),² a recent decision issued by the Chief Administrative Hearing Officer (CAHO), the CAHO discussed the date of the assessment of a fine in a §1324a matter.

¹ The Court GRANTS Complainant's June 16, 2023 Motion for Substitution of Counsel. Assistant Chief Counsel Bruna Walls is now the attorney of record for Complainant.

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>.

The CAHO observed that beginning with United States v. Farias Enters., LLC, 13 OCAHO no. 1338, 7 (2020), OCAHO ALJs have interpreted the date of assessment to be the date when ICE serves the Notice of Intent to Fine (NIF) on a respondent. Edgemont Grp., LLC, 17 OCAHO no. 1470b, at 4; *see id.* at 4–12 (discussing OCAHO jurisprudence on ICE penalty calculations). The CAHO remarked that there is “considerable [but] not wholly incontrovertible” legal support that the date of assessment is “the date OCAHO determines a civil monetary penalty, rather than the date [ICE] proposes such a penalty through the service of a NIF.” *Id.* at 11.

This analysis has direct application to the matter presently before this Court, in that Complainant’s Motion for Summary Decision, following Farias, concludes that the date of assessment is the date of the issuance of the NIF. *See* Mot. Summ. Dec. 2–3, Ex. A–B (explaining ICE’s penalty assessment for the alleged violations of § 1324a(a)(1)(B)).

The parties did not have the benefit of Edgemont Grp., LLC in the preparation of their summary decision briefing. Accordingly, the Court invites each party to file supplemental briefs related to the applicability of Edgemont Grp., LLC to Complainant’s Motion for Summary Decision, and, if the Court were to find liability, the date of assessment to be used in calculating penalties.

The parties’ supplemental briefs may be submitted no later than 14 days from the issuance of this Order.

SO ORDERED.

Dated and entered on August 3, 2023.

Honorable John A. Henderson
Administrative Law Judge