

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. 2021A00018
ALICIA M. VASQUEZ,)	
d/b/a ALICIA'S RESTAURANT,)	
)	
Respondent.)	
)	

Appearances: Colin W. Maguire, Esq., for Complainant
Jodilyn M. Goodwin, Esq., for Respondent

FINAL DECISION AND ORDER

This case arises under the employer sanctions provisions of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324a. On February 8, 2021, the United States Department of Homeland Security, Immigration and Customs Enforcement filed a Complaint with the Office of the Chief Administrative Hearing Officer against Respondent, Alicia M. Vasquez, doing business as Alicia's Restaurant. Respondent filed an Answer to the Complaint on March 31, 2021.

On July 2, 2021, the parties filed a Joint Motion to Accept the Parties' Settlement Agreement and Issue a Final Decision and Order. On July 29, 2021, this Court conducted a telephonic prehearing conference to discuss the motion. During the prehearing conference, the Court explained to the parties that their settlement agreement did not align with OCAHO's Rules of Practice and Procedure for Administrative Hearings located at 28 C.F.R. part 68 (2017). Order Memorializing Prehearing Conference and Setting Filing Deadline 1. The Court told the parties that, under OCAHO's rules, they may conclude the case either through consent findings or dismissal as described in 28 C.F.R. § 68.14. *Id.* The parties represented that they intended to proceed pursuant to 28 C.F.R. § 68.14(a)(1) and would submit proposed consent findings to the Court. *Id.* As such,

the Court ordered the parties to file submissions that comported with 28 C.F.R. § 68.14(a) by August 12, 2021. *Id.* at 2.

The parties filed a Second Joint Motion to Accept the Parties' Settlement Agreement and Issue a Final Decision and Order on August 12, 2021. The parties attached a proposed decision and order, along with an Amended Settlement Agreement containing consent findings. Having settled this matter, the parties now ask the Court to issue a final decision and order pursuant to 28 C.F.R. § 68.14(a)(1).

The Court finds that the parties' filings substantially conform to the requirements of 28 C.F.R. §§ 68.14(a)(1) and 68.14(b). Specifically, the Amended Settlement Agreement reflects the parties' intention to resolve this matter fully and their agreement pursuant to 28 C.F.R. §§ 68.14(b)(1)-(4) that: (1) the Court's decision and order based on the consent findings in this matter "shall have the same force and effect as a [d]ecision and [o]rder made after a full hearing;" (2) "that the entire record on which any [d]ecision or [o]rder may be based shall consist solely of the [C]omplaint, notice of hearing, and any other such pleadings and documents as the Court shall specify;" (3) "that the parties waive any further procedural steps before the Court;" and (4) "that the parties waive any right to challenge or contest the validity of the [d]ecision and [o]rder entered into in accordance with . . . the [Amended] Settlement Agreement." Am. Settlement Agreement 1.

The Court is satisfied with the timeliness, form, and substance of the parties' Amended Settlement Agreement and, with the caveat given below, GRANTS the parties' Second Joint Motion and accepts the parties' Amended Settlement Agreement containing their agreed consent findings as the Court's findings in this case and hereby incorporates those findings by reference, the same as if they were set forth herein at length.

Paragraph 11(i) of the parties' Amended Settlement Agreement requires Respondent to "[c]ease and desist from the violations [of 8 U.S.C. § 1324a] set forth in the Notice of Intent to Fine and Complaint." Count I of the Notice of Intent to Fine and the Complaint allege that Respondent failed to prepare and/or present employment eligibility verification forms in violation of 8 U.S.C. § 1324a(a)(1)(B), while Count II of the Notice of Intent to Fine and Complaint allege that Respondent knowingly hired individuals who were not authorized for employment in the United States, in violation of 8 U.S.C. § 1324a(a)(1)(A). Compl. 3-4; *id.* Ex. A, Attachs. A-B. However, 8 U.S.C. § 1324a only provides a cease and desist order for the hiring violations in Count II and not for the paperwork violations in Count I. See 8 U.S.C. § 1324a(e)(4); *see also United States v. Torres Mexican Food, Inc.*, 4 OCAHO no. 596,

88, 89 (1994) (citations omitted).¹ As such, the Court incorporates the parties' cease and desist remedy into this Final Decision and Order only as it relates to the knowingly hired violations in Count II of the Notice of Intent to Fine and Complaint.

The Court finds that the record in this case consists of the following pleadings and documents upon which it now bases its Final Decision and Order: (1) Complaint and attached exhibits, including, but not limited to, the Notice of Intent to Fine Pursuant to Section 274A of the Immigration and Nationality Act and Request for Hearing before an Administrative Law Judge, (2) Notice of Case Assignment for Complaint Alleging Unlawful Employment, (3) Respondent's Answer to Complaint Regarding Unlawful Employment, (4) Order for Prehearing Statements and Initial Disclosures, (5) Order on Electronic Filing, (6) Complainant's Prehearing Statement and Initial Disclosures, (7) Joint Motion for Extension of Respondent Prehearing Statement and Initial Disclosures Filing Deadline, (8) Order Granting, In Part, Parties' Joint Motion for Extension of Time and Setting Revised Case Schedule, (9) Respondent's Notice of Appearance Pursuant to 28 C.F.R. § 68.33(f), (10) Joint Motion to Accept the Parties' Settlement Agreement and Issue a Final Decision and Order, (11) Order Rescheduling Prehearing Conference, (12) Order Memorializing Prehearing Conference and Setting Filing Deadline, and (13) Second Joint Motion to Accept the Parties' Settlement Agreement and Issue a Final Decision and Order. Based on the evidence in the record, including, but not limited to, the agreed consent findings in paragraph 10 of the parties' Amended Settlement Agreement, the Court finds that Respondent has violated 8 U.S.C. § 1324a and issues this Final Decision and Order finding Respondent liable for the same.

All relief sought in the parties' Amended Settlement Agreement, excluding the cease and desist order for the paperwork violations under Count I of the Notice of Intent to Fine and Complaint, is GRANTED. Each of the parties will perform the

¹ 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 at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

promises undertaken in their Amended Settlement Agreement, containing the parties' consent findings, and each will bear its own costs, attorney's fees, and other expenses, as provided in paragraph 21 of the parties' Amended Settlement Agreement.

It is hereby ORDERED that Respondent shall pay a civil money penalty of \$33,000 for the admitted violations set forth in Counts I and II of the Complaint and the Notice of Intent to Fine in this matter, and as agreed in paragraph 11(ii) of the parties' Amended Settlement Agreement.

It is FURTHER ORDERED that, given Respondent's violations of the hiring provisions of 8 U.S.C. § 1324a(a)(1)(A), Respondent shall cease and desist from violating Section 274A(a)(1)(A) of the Immigration and Nationality Act, in accordance with 8 U.S.C. § 1324a(e)(4)(A).

This Final Decision and Order shall have the same force and effect as a decision and order made after a full hearing.

This Final Decision and Order is the final order of the Administrative Law Judge in accordance with 28 C.F.R. § 68.52, and will become the final agency order unless vacated or modified by the Chief Administrative Hearing Officer as provided in 28 C.F.R. § 68.54 or referred to the Attorney General pursuant to 28 C.F.R. § 68.55.

ENTERED:

Honorable Carol A. Bell
Administrative Law Judge

DATE: December 10, 2021

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.